Regular Meeting
April 21, 2020
6:00 p.m.

Public Participation for Council Meetings

Public Participation for this remote Council meeting will be available online or by phone. No one will be allowed to attend in person.

View Meeting Agenda

Watch the Meeting: Anyone can view the Council meeting live on Channels 14 and 881 or online at www.fcgov.com/fctv.

Public Participation (Online): Individuals who wish to address Council via remote public participation can do so through Zoom at https://tinyurl.com/cofccouncilmeeting04212020. The link and instructions will also be posted at www.fcgov.com/councilcomments. Individuals participating in the Zoom session should also watch the meeting through that site, and not via FCTV, due to the streaming delay and possible audio interference.

The meeting will be available beginning at 5:15 p.m., Tuesday. Participants wanting to ensure their equipment setup is working should join prior to 6:00 p.m. For public comments, the Mayor will ask participants to click the “Raise Hand” button to indicate you would like to speak at that time. Staff will moderate the Zoom session to ensure all participants have an opportunity to address Council.

In order to participate:

- Use a laptop, computer, or internet-enabled smartphone.
  - Please note that using earphones with a microphone will greatly improve your audio.
- You need to have access to the internet.
- Join the Zoom meeting by clicking on link above. The meeting room will open at 5:15 p.m.
- Keep yourself on muted status.
- DO NOT Watch/stream FCTV at the same time
**Public Participation (Phone):** If you do not have access to the internet, call the City Clerk’s office at (970) 221-6515 no later than 3:00 p.m. on the day of the meeting.

- Please indicate that you want to participate in public participation by phone and give your name and phone number. If you get a voicemail message, please leave the same information.
- Once you have given this information (in person or by message), a staff person will provide you with the phone number that will allow you access to the Zoom meeting.

As listed above, the meeting will be available beginning at 5:15 p.m. Please call in to the meeting prior to 6:00 p.m., if possible. For public comments the Mayor will ask participants to indicate if you would like to speak at that time — **phone participants will need to hit *9 to do this.** Staff will be moderating the Zoom session to ensure all participants have an opportunity to address Council. Once you join the meeting:

- **DO NOT Watch/stream FCTV at the same time**

**Documents to Share:** If residents wish to speak to a document or presentation, the City Clerk needs to be emailed those materials by 4 p.m. the day of the meeting.

Individuals not comfortable or able to access the Zoom platform or able to participate by phone are encouraged to participate by emailing general public comments you may have to **CityLeaders@fcgov.com.** If you have specific comments on any of the discussion items scheduled, please make that clear in the subject line of the email and send prior to the meeting Tuesday evening.

**Note:** Only individuals who wish to address Council should use the Zoom link or call in by phone. Anyone who wants to watch the meeting, but not address Council, should view the FCTV livestream.

**Proclamations and Presentations 5:45 p.m.**

The Mayor will share highlights of each proclamation listed below but will not read proclamations in their entirety.

A. Proclamation Declaring April 24, 2020 as Arbor Day.
B. Proclamation Declaring April 19-25, 2020 as National Volunteer Week.
C. Proclamation Declaring April 20-26, 2020 as Wastewater Worker Recognition Day.
D. Proclamation Declaring May 7, 2020 as Lamar’s Donuts Day.
E. Proclamation Declaring May 1, 2020 as Global Love Day.
Regular Meeting
6:00 p.m.

- PLEDGE OF ALLEGIANCE
- CALL MEETING TO ORDER
- ROLL CALL
- AGENDA REVIEW: CITY MANAGER
  - City Manager Review of Agenda.
  - Consent Calendar Review
    This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this calendar be “pulled” off the Consent Calendar and considered separately.
    - Council-pulled Consent Calendar items will be considered before Discussion Items.
    - Citizen-pulled Consent Calendar items will be considered after Discussion Items.
- PUBLIC COMMENT

  Individuals may comment regarding items scheduled on the Consent Calendar and items not specifically scheduled on the agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to the Council.

  - Those who wish to speak are asked to sign in at the table in the lobby (for recordkeeping purposes).
  - All speakers will be asked by the presiding officer to identify themselves by raising their hand, and then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).
  - The presiding officer will determine and announce the length of time allowed for each speaker.
  - Each speaker will be asked to state his or her name and general address for the record, and to keep comments brief. Any written comments or materials intended for the Council should be provided to the City Clerk.
  - A timer will beep once and the timer light will turn yellow to indicate that 30 seconds of speaking time remain, and will beep again and turn red when a speaker’s time to speak has ended.

  [**For questions about the development review process or the status of any particular development, citizens should consult the Development Review Center page on the City’s website at fcgov.com/developmentreview, or contact the Development Review Center at 221-6750.]

- PUBLIC COMMENT FOLLOW-UP
The Consent Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Pulled Consent Items. Items remaining on the Consent Calendar will be approved by City Council with one vote. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

If the presiding officer determines that the number of items pulled from the Consent Calendar by citizens is substantial and may impair the Council’s ability to complete the planned agenda, the presiding officer may declare that the following process will be used to simplify consideration of the Citizen-Pulled Consent Items:

1. All citizen-pulled items (to be listed by number) will be considered as a group under the heading “Consideration of Citizen-Pulled Consent Items.”

2. At that time, each citizen wishing to speak will be given a single chance to speak about any and all of the items that have been moved to that part of the agenda.

3. After the citizen comments, any Councilmember may specify items from the list of Citizen-Pulled Consent Items for Council to discuss and vote on individually. Excluding those specified items, Council will then adopt all “Citizen-Pulled Consent Items” as a block, by a single motion, second and vote.

4. Any Citizen-Pulled Consent Items that a Councilmember has asked to be considered individually will then be considered using the regular process for considering discussion items.

1. Consideration and Approval of the Minutes from the March 31, 2020, City Council Adjourned Meeting.

   The purpose of this item is to approve the minutes from the March 31, 2020, adjourned Council meeting.

2. Postponement of Second Reading of Ordinance No. 027, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Soldier Canyon Pump Station Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

   This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

   Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

   This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the annexation known as the Soldier Canyon Pump Station Annexation. Soldier Canyon Pump Station Annexation, owned by the Platte River Power Authority, is located adjacent to the City of Fort Collins Water Treatment Facility at 4316 Laporte Avenue and is 0.702 acres in size. The proposed zoning for this annexation is Residential Foothills (R-F). The surrounding uses include the existing City Water Treatment Plant to the north, south and west, and Colorado State University Solar Farm to the east. The abutting City limits to the north, south and west are zoned Residential Foothills (R-F). Staff also recommends placement into the Residential Neighborhood Sign District.
3. Postponement of Second Reading of Ordinance No. 029, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 1 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the first of three sequential annexations, known as the Timberline-International Annexation No.1. Timberline-International Annexation No. 1 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

4. Postponement of Second Reading of Ordinance No. 031, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 2 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the second of three sequential annexations, known as the Timberline-International Annexation No. 2. Timberline-International Annexation No. 2 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

5. Postponement of Second Reading of Ordinance No. 033, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 3 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the third of three sequential annexations, known as the Timberline-International Annexation No.3. Timberline-International Annexation No. 3 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in
Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

6. **Second Reading of Ordinance No. 042, 2020, Reappropriating Funds Previously Appropriated in 2019 But Not Expended or Not Encumbered in 2019.**

Prior to the Second Reading of this Ordinance, the 2020 Reappropriation requests were reviewed again in light of tightening revenue due to COVID-19. The Executive Lead Team evaluated each request to determine if they were either recovery-related or contractually binding. This additional review removed 12 requests and reduced the amount within another one, as detailed in the Background/Discussion section of this Agenda Item Summary. The items being removed from consideration are still important but did not pass the additional scrutiny required in this challenging economic time.

This Ordinance, unanimously adopted on First Reading on March 3, 2020, reappropriates monies in 2020 that were previously authorized by Council for expenditures in 2019 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2019 because:

- there was not sufficient time to complete bidding in 2019 and, therefore, there was no known vendor or binding contract as required to expend or encumber the monies,
- the project for which the dollars were originally appropriated by Council could not be completed during 2019 and reappropriation of those dollars is necessary for completion of the project in 2020, or
- the funds appropriated to be spent in 2019 to carry on some of the programs, services, and facility improvements were not spent or encumbered in 2019 for other reasons but continue to be needed for the same purposes in 2020.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2019 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows (updated prior to Second Reading):

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$199,008</td>
</tr>
<tr>
<td>Keep Fort Collins Great Fund</td>
<td>7,500</td>
</tr>
<tr>
<td>Transportation CEF Fund</td>
<td>1,750,000</td>
</tr>
<tr>
<td>Transportation Fund</td>
<td>50,000</td>
</tr>
<tr>
<td>Data and Communications Fund</td>
<td>214,125</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,220,633</strong></td>
</tr>
</tbody>
</table>

7. **Second Reading of Ordinance No. 045, 2020, Appropriating Unanticipated Philanthropic Revenue from New Belgium Brewing in the General Fund and Transferring it to the Capital Projects Fund for the Poudre River Reach 4 Feasibility Study.**

This item is coming to Council on Second Reading because it is necessary to move the project forward.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $10,000 of philanthropic revenue in the General Fund for transfer to the Capital Projects Fund for the Reach 4 Feasibility Study by Park Planning & Development. The intent of the charitable gift, secured and facilitated by City Give, is designated by the donor, New Belgium Brewing, in support of the Reach 4 Feasibility Study.

The Reach 4 efforts focus on the feasibility of completing the improvements as called out in the Poudre River Downtown Master Plan. The Plan includes a conceptual site plan and cost estimate for Reach 4, located between the Whitewater Park and Linden Street. Reach 4 is particularly sensitive, as it is a former Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site. The study will help determine if/how the concept site plan and cost estimate provided in the Master Plan should be adjusted, based on a more robust analysis of the site conditions and preferred outcomes. These efforts will help inform a design and construction offer in the upcoming BFO process.

This item is coming to Council because the appropriation of the funds is the sole source of funding for improvements to Veteran’s Plaza. The improvements are to be completed prior to Memorial Day, May 25, 2020, as Veteran’s Plaza of Northern Colorado hosts a memorial event at this location annually.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $10,752 of philanthropic revenue in the General Fund for transfer to the Capital Projects Fund to be used for improvements at the Veterans Plaza in Spring Canyon Community Park. The charitable gift, facilitated by City Give, was made by Veterans Plaza of Northern Colorado. The charitable funding will underwrite the costs of improvements to construct a new sidewalk from the parking area to Veterans Plaza and provide other site improvements.

9. Second Reading of Ordinance No. 051, 2020, Authorizing the Sale of Real Property Located Adjacent to the Utilities Service Center at 700 Wood Street.

This item is coming to Council on Second Reading because it is necessary to move the agreement forward in order to complete the transaction and receive the sale proceeds.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, authorizes the sale of City-owned real property located at approximately 525 North Whitcomb Street, adjacent to the City’s Utilities Services Center located at 700 Wood Street. The property is a small offsetting portion of the Utility Service Center development and consists of 1,680 square feet. The buyers are the owners of real property at 525 North Whitcomb Street. The sale price is $6,720 and the proceeds will be placed in the Light and Power Fund.

10. Second Reading of Ordinance No. 052, 2020, Authorizing the Conveyance of a Permanent Sanitary Sewer Line Easement and a Temporary Construction Easement on Soaring Vista Natural Area to South Fort Collins Sanitation District.

This item is coming to Council on Second Reading. Council authorization is the final step after more than a year of negotiations related to easement terms and finalizing the language of the agreement.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, authorizes the conveyance of a permanent sanitary sewer line easement and a temporary construction easement to South Fort Collins Sanitation District (SFCSD) on behalf of Interstate Land Holdings, LLC (ILH) on Soaring Vista Natural Area. The proposed easement area aligns with an existing sewer line easement held by South Fort Collins Sanitation District on the west side of the natural area.

11. Second Reading of Ordinance No. 053, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a Water Shortage Action Plan (Previously Known as the Water Supply Shortage Response Plan) and Making Various Related Changes.

This Second Reading is necessary to continue the public process and ensure the updated Water Shortage Action Plan can be utilized when responding to future water shortages.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, adopts into City Code by reference an updated Water Supply Shortage Response Plan (WSSRP) for Fort Collins Utilities. The updated plan and updates to City Code Section 26-167(a) include: changing the name to the Water Shortage Action Plan (WSAP); adding new sections to the Plan; changes and additions to various restrictions; changes to the structure of the water restriction levels; and changes to the water rate increases during declared water shortages.
12. **Second Reading of Ordinance No. 055, 2020, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and Convention and Visitor Program Services.**

This item is coming to Council at this time as a Second Reading Ordinance. It relates to funding activities that must move forward in a timely way. Specifically, per the City’s contract with Visit Fort Collins for convention and visitor services the payment must be made by the City in May. For Fort Fund, the appropriation fulfills the 2020 grant disbursement requirements. The review is in progress and being reviewed by the Cultural resources Board in April.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $753,709, of which $441,944 is proposed for 2020 Cultural Development and Programming Activities (Fort Fund), $48,198 is proposed for 2020 Tourism Programming (Fort Fund), and $263,567 is proposed for 2020 Convention and Visitors Program activities, from a combination of Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging taxes are annually collected by the City of Fort Collins for Cultural Development and Tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on actual collections. Lodging tax revenue collected in 2019 was $376,406 above projected collections.

13. **Second Reading of Ordinance No. 056, 2020, Making Supplemental Appropriations and a Transfer from the Light & Power Fund to be Expended in Support of the Epic Homes Program.**

This item is coming to Council on Second Reading. The appropriation of these grant funds is necessary to enable Utilities and Economic Health to move forward with project management and operations for the Bloomberg Mayors Challenge grant project (the Epic Homes program). Epic Homes is a streamlined, affordable approach for single-family home and rental property energy efficiency upgrades to improve comfort, health and efficiency in Fort Collins.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $118,135 in grant funds from Bloomberg Philanthropies and interest earned on previous grant funds, as part of the Bloomberg Mayor’s Challenge, from the Fort Collins Utilities Light and Power Fund to be expended for the ongoing project management and operations of Epic Homes Program by Utility Services and the Economic Health Office (EHO) and to pay a sub-grant to Colorado State University for indoor environmental quality research. The funds paid to the EHO will be accomplished by a transfer from the Light and Power Fund. The Bloomberg Philanthropies funds come from (1) the 2020 grant installment of $112,000 and (2) $6,135 in interest earned on advanced Bloomberg Philanthropies funds as of December 31, 2019. Based on terms of the Bloomberg grant agreement, all advanced grant funds are subject to accruing interest, with such interest earned being reported on a semi-annual basis, and with such earnings used to further project goals as demonstrated in the agreement among Bloomberg and the City.

14. **Second Reading of Ordinance No. 057, 2020, Amending Section 2-568 of the Code of the City of Fort Collins to Clarify Ethical Rules of Conduct to Address Employee Housing and Purchases from the City.**

This item is coming to Council as a Second Reading. It is high priority as it will allow immediate housing of an employee who will serve as a caretaker on a large remote property to help protect the valuable recently acquired assets.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, amends City Code to clarify that the City Charter’s prohibition on City employees purchasing property from the City was not intended to prevent employees from compensating the City for the value of housing that they are required to live in as a condition of employment. This would confirm Council’s expectations related to this issue and to clarify how these kinds of housing arrangements relate to the Charter requirement.
15.  First Reading of Ordinance No. 062, 2020, Appropriating an Unanticipated Charitable Donation to the City from Broadcom, Inc. to be Used for COVID-19 Relief.

While this item is not critical or urgent in nature as related to the COVID-19 emergency, it is being presented to Council now because it provides funds to be used to mitigate the effects of the emergency.

The purpose of this item is to appropriate $100,000 in unanticipated philanthropic revenue in the General Fund for COVID-19 community relief. The intent of the charitable gift, facilitated and secured by City Give, is designated by the donor, Broadcom Inc., to support the critical and expanded needs of essential community services and organizations.

It is the donor’s determination the City possesses unique knowledge of urgent community gaps and can serve as a critical gateway as to how monies can be effectively and immediately applied to local emergency relief. Thus, the City will distribute $75,000 of the total gift to three community partners: Neighbor to Neighbor, New Belgium Bar & Restaurant Relief Fund and Poudre School District. The remaining $25,000 will be used to support City efforts across its service areas, departments and programs, to include, without limitation, Adopt-A-Neighbor, Safety & Risk Management, Social Sustainability and to launch childcare for essential employees, specifically police and other first responders.


This is coming to Council now because the Natural Areas Department is mandated by ballot to conserve land and funds are needed for a real estate closing on June 30 as well as anticipated closings throughout the year. Reappropriations also will support the completion of two infrastructure projects. One is legally required for water rights and the other is critical to prevent stormwater overtopping of Prospect Road. The proposed reappropriation for critical trail work is seasonally dependent and even more urgent given skyrocketing visitation due to the COVID-19 pandemic. This item appropriates $8,770,000 in prior year reserves in the Natural Areas Fund.

17.  First Reading of Ordinance No. 064, 2020, Amending the Code of the City of Fort Collins to Delay the December 31, 2020, Implementation Date for Business and Multi-Family Recycling Requirements Included in the Community Recycling Ordinance.

The purpose of this item is to delay the implementation date of the business and multi-family recycling requirement in the Community Recycling Ordinance from December 31, 2020, to June 30, 2021, due to impacts of the COVID-19 response.

18.  Resolution 2020-037 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, the City of Loveland, and the Town of Estes Park for Shared Broadband Technical and Network Support Services.

This item is coming to Council at this time due to the critical importance and timing for establishing a working technical support call center for Estes Park and Loveland.

The purpose of this item is to consider an intergovernmental agreement (IGA) for shared broadband technical and network support services between the City of Fort Collins, Loveland, Estes Park and additional Colorado governmental entities. This IGA is the second step in arranging for such shared services currently operated by the City for its own benefit. Completion of the IGA to share these services will provide revenue to partially support those services benefitting the Fort Collins Connexion.


The purpose of this item is to approve emergency rules and regulations enacted by the City Manager between April 6 and April 16, 2020, in response to the COVID-19 emergency. Section 2-671(a)(6)(a)
of the City Code provides that the emergency rules and regulations must be confirmed at the earliest practical time by the City Council. This Resolution seeks Council’s approval and ratification of the emergency measures.

END CONSENT

• CONSENT CALENDAR FOLLOW-UP

This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

• STAFF REPORTS

A. COVID-19 Update (staff: Jim Byrne)

• COUNCILMEMBER REPORTS

• CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (three minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. Please sign in at the table in the back of the room. The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker’s time.


The purpose of this item is consideration of the opinion of the Ethics Review Board to Council for its consideration and possible approval.

21. Postponement of Public Hearing and Second Reading of Ordinance No. 138, 2019, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hughes Stadium Site Rezoning and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020. (staff: Cameron Gloss, Tom Leeson; no staff presentation; 5 minute discussion)

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.
This Ordinance, adopted on First Reading on November 5, 2019, by a vote of 4-3 (Nays: Cunniff, Gutowsky, Pignataro), rezones 164.55 acres located on the west side of Overland Trail and north of CR32, with one condition, and to place the property into the Residential Sign District. City Council initiated the rezoning on July 16, 2019 and directed City staff to prepare a rezoning application and make a recommendation regarding the appropriate zoning. The site is currently zoned Transition (T) and staff recommends placement into the Residential Foothills (RF) and Low-Density Mixed-Use Neighborhood (LMN) zone districts. A recommended condition of the rezone requires that future development in the portion zoned Residential Foothills district meet the requirements of a Cluster Plan pursuant to Land Use Code Section 4.3(E)(2). The request places the property into the Residential Sign District. The Planning and Zoning Board on a 4-2 vote recommended that City Council not adopt the staff proposed zoning and instead zone the property entirely Residential Foothills.

Second Reading hearing procedure:

1. Announcement of item
2. Consideration of any procedural issues
3. Additional City staff presentation, if any, regarding the rezoning application
4. Additional property owner presentation, if any, regarding the rezoning application
5. Public testimony
6. City staff and property owner rebuttal testimony
7. Councilmember questions of staff, the property owner, and members of the public that provided comments
8. Council decision

Any member of the public, including the property owner of the property being considered for rezoning, who wishes to provide materials to City Council for consideration in relation to this item must provide such information to the City Clerk no later than noon on April 21 as required pursuant to Section 3.g.(2) of the Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions.

22. Items Relating to Electric Assisted Bicycles on Paved Trails.  (staff: Tessa Greegor; no staff presentation; 5 minute discussion)

This item is coming to City Council as Second Reading of the Ordinances. The one-year pilot program allowing Class 1 and Class 2 e-bikes on paved trails is set to expire on April 30. Subsequent action is needed by City Council to determine future e-bike regulations, based on the pilot program results, prior to the expiration of the pilot program ordinance.

A. Second Reading of Ordinance No. 058, 2020, Amending Chapter 23 of the Code of the City of Fort Collins to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.

B. Second Reading of Ordinance No. 059, 2020, Amending the Fort Collins Traffic Code to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.

These Ordinances, adopted on First Reading on April 7, 2020 by a vote of 6-1 (Nays: Cunniff) update Fort Collins City and Traffic Code to allow Class 1 and Class 2 e-bikes on City-paved trails. In April 2019, Fort Collins City Council approved a one-year pilot program to allow Class 1 and Class 2 e-bikes on paved trails in Fort Collins. This one-year pilot program began May 1, 2019 and will end April 30, 2020. Data and public input were collected during the pilot program, and staff has found no major issues associated with allowing e-bikes on paved trails at this time. Research and the pilot program indicate e-bikes provide mobility, sustainability, and health benefits, and can help achieve Fort Collins’ Climate Action and transportation goals.

In conjunction with the recommendation to continue allowing Class 1 and Class 2 e-bikes on paved trails, staff is also recommending strategies to ensure Fort Collins’ trail system remains a positive and safe experience for all users as use increases, and to address concerns raised during the pilot program.
054, 2020, Enacting Temporary Procedures for Remote Participation in Certain Meetings.  (staff:
Rebecca Everette, Tom Leeson; no staff presentation; 10 minute discussion)

This Ordinance, adopted on First Reading on April 14, 2020, by a vote of 6-1 (nays: Pignataro)
authorizes certain types of remote meetings in light of the declared local emergency. The Ordinance
will allow remotely conducted City Council meetings and certain quasi-judicial hearings by Council,
City boards and commissions and administrative hearing officers. The types of quasi-judicial items
that can be considered remotely are limited and exclude zoning decisions, appeals and additions of
permitted use. The Ordinance also authorizes remote neighborhood meetings in the Development
Review Process. Finally, the Ordinance also permits remote participation by boards and commissions
in order to complete essential City business.

- CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS

- OTHER BUSINESS

Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate
and move forward with development and preparation of resolutions and ordinances not originating
from the Council's Policy Agenda or initiated by staff.)

- ADJOURNMENT

A. Consideration of a motion to adjourn to 6:00 p.m., Tuesday, April 28, 2020.

"I move that Council adjourn this meeting to 6:00 p.m., on Tuesday April 28, 2020, for consideration
of a possible executive session and for such other business as may come before the Council."

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business
commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City
Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of
considering additional items of business. Any matter which has been commenced and is still pending at
the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which
have not yet been considered by the Council, will be continued to the next regular Council meeting and
will be placed first on the discussion agenda for such meeting.
PROCLAMATION

WHEREAS, in 1872 more than a million trees were planted in Nebraska to celebrate the first Arbor Day, which is now observed throughout the nation and the world; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community as well as help conserve energy use by shading and cooling buildings and pavement; and

WHEREAS, trees can reduce the erosion of our precious topsoil, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, provide habitat for wildlife and can help offset the greenhouse effect by turning carbon dioxide, the primary cause of global warming, into life-giving oxygen; and

WHEREAS, Fort Collins has been recognized as a Tree City USA by the National Arbor Day Foundation for 42 years; and

WHEREAS, the City wishes to recognize O’Dea Elementary School, which has been selected as the Arbor Day School site for this year’s tree planting ceremony to be held at a future, safe date; and

WHEREAS, the City also wishes to recognize the Platte River Power Authority for maintaining a strong commitment to the environment with the addition of non-carbon generation resources; and

WHEREAS, the Platte River Power Authority supports sustainability and community improvement and has given the City $3,500 to purchase trees that will be planted in honor of Arbor Day.

NOW, THEREFORE, I, Wade Troxell, Mayor of the City of Fort Collins, do hereby proclaim April 24, 2020 as

ARBOR DAY

in Fort Collins and urge all citizens to support efforts to protect our trees and woodlands and to support our city’s urban forestry program by planting trees for present and future generations. We thank the Platte River Power Authority for its generous donation and Fort Collins Wholesale Nursery for its donation and contribution to the celebration of Arbor Day.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 21st day of April, A.D. 2020.

______________________________
Mayor

______________________________
City Clerk
PROCLAMATION

WHEREAS, volunteers can connect with local community service opportunities through hundreds of community service organizations; and

WHEREAS, individuals and communities are at the center of social change, discovering their power to make a difference; and

WHEREAS, during this week, all over the nation, service projects will be performed and volunteers recognized for their commitment to service; and

WHEREAS, our country’s volunteer and national service member force of more than 63 million is a great treasure; and

WHEREAS, April is a month for volunteers, with the occurrences of National Service Recognition Day, CSUnity, Earth Day, and United Way’s National Volunteer Month; and

WHEREAS, Fort Collins has the 6th largest volunteer rate of any mid-sized city in the country at 38%; and

WHEREAS, volunteers are vital to our future as a caring and productive nation.

NOW, THEREFORE, I, Wade Troxell, Mayor of Fort Collins do hereby proclaim April 19-25, 2020 as

NATIONAL VOLUNTEER WEEK

in Fort Collins, and urge my fellow citizens to volunteer in their respective communities. By volunteering and recognizing those who serve, we can come together to make a difference.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk
PROCLAMATION

WHEREAS, water is our most valuable economic, environmental and recreational natural resource, and safe transport and sanitation is imperative to protect public health; and

WHEREAS, wastewater treatment workers consistently strive to improve the reliability of the pipes and administration of the processes that impact the cleanliness of streams, rivers and lakes; and

WHEREAS, Fort Collins wastewater treatment workers include certified operators, maintenance personnel, laboratory staff, sewer maintenance crews, field operators, biosolids workers, industrial waste pretreatment personnel, administrative staff, engineers and suppliers; and

WHEREAS, Wastewater Worker Recognition Week is a unique opportunity for both wastewater professionals and the communities they serve to join together to recognize the vital role water collection and reclamation workers play in our daily lives; and

WHEREAS, the City of Fort Collins wastewater collection system transports waste to the water reclamation facilities for treatment to ensure the water and biosolids leaving the facilities are safe, exceed federal and state standards, and contribute to a healthy community; and

WHEREAS, each citizen of Fort Collins is called upon to help protect our sanitary sewer collection system and infrastructure and is a steward of the water reclamation and resource recovery services upon which future generations depend.

NOW, THEREFORE, I, Wade Troxell, Mayor of the City of Fort Collins, do hereby proclaim April 20-26, 2020, as

WASTEWATER WORKER RECOGNITION WEEK

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

_________________________________
City Clerk
PROCLAMATION

WHEREAS, Colorado-based LaMar’s Donuts supports the Fort Collins community through ongoing charitable contributions to 11 local organizations dedicated to serving the underprivileged or providing education to Fort Collins youth; and

WHEREAS, this year marks the 5th anniversary of LaMar’s sponsorship of the Donuts with a Cop event in the city of Fort Collins, which began in 2015. The event encourages a healthy dialog between law enforcement officers and Fort Collins residents, promoting mutual respect; and

WHEREAS, LaMar’s Donuts provides a $600 weekly donation to the Salvation Army Center in Fort Collins, assisting their efforts to provide services to the homeless and needy; and

WHEREAS, with a corporate headquarters located in Denver, Colorado, LaMar’s Donuts has become a regional institution with two stores in Fort Collins and seven other locations across Colorado; and

WHEREAS, May 7 also corresponds with the birthday of LaMar’s Donuts founder Ray Lamar.

NOW THEREFORE, I, Wade Troxell, Mayor of the City of Fort Collins, do hereby proclaim the May 7, 2020 as

LAMAR’S DONUTS DAY

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 21st day of April, A.D. 2020.

________________________________________
Mayor

ATTEST:

________________________________________
City Clerk
PROCLAMATION

WHEREAS, the Love Foundation, Inc., a non-profit organization, has announced Global Love Day to facilitate in establishing love and peace on our planet; and

WHEREAS, Global Love Day will establish a worldwide focus towards “unconditionally loving each other as we love ourselves”; and

WHEREAS, we are one humanity on this planet; and

WHEREAS, all share in the universal bond of love; and

WHEREAS, love begins with self-acceptance and forgiveness; and

WHEREAS, with respect and compassion we embrace diversity; and

WHEREAS, together we make a difference through love; and

WHEREAS, the Love Foundation, Inc. invites mankind to declare May 1, 2020 as Global Love Day, a day of forgiveness and unconditional love. Global Love Day will act as a model for all of us to follow, each and every day.

NOW, THEREFORE, I, Wade Troxell, Mayor of the City of Fort Collins, do hereby proclaim May 1, 2020 as

GLOBAL LOVE DAY

and invite all citizens to observe this day which honors the public cause for global love, world peace and universal joy.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Fort Collins this 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

_________________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY
City Council

STAFF
Delynn Coldiron, City Clerk

SUBJECT
Consideration and Approval of the Minutes From the March 31, 2020, City Council Adjourned Meeting.

EXECUTIVE SUMMARY
The purpose of this item is to approve the minutes from the March 31, 2020, adjourned Council meeting.

ATTACHMENTS
1. March 31, 2020 (PDF)
ROLL CALL

(Due to COVID-19 crisis and state and local orders to stay at home and not gather, all Councilmembers and staff attended the meeting remotely, via teleconference.)

PRESENT: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff
Staff Present: Atteberry, Daggett, Coldiron

AGENDA REVIEW: CITY MANAGER

City Manager Atteberry reiterated that pursuant to Emergency Ordinance No. 054, 2020, he and the Mayor have determined that remote participation by Councilmembers is required as meeting in person would not be prudent due to current COVID-19 concerns, public health agency recommendations, and stay-at-home orders. He stated Council will be considering a motion to postpone Item Nos. 5 and 7-13 to the April 7 agenda, and a motion to postpone Item Nos. 1-4, 6, 16, and 17 to the April 21 agenda. He also recommended withdrawing Item Nos. 14, Resolution 2020-032 Approving Emergency Rules and Regulations Enacted by the City Manager Pursuant to the Local Covid-19 Emergency Between March 17 and March 30, 2020, and 15, Resolution 2020-033 Establishing City Council's Intent that Appropriate Members of Congress and the Colorado General Assembly be Advised of the City's Interests in Pending and Prospective COVID-19 Related Legislation, from the Consent Agenda for individual consideration and stated both executive sessions on the agenda will be rescheduled.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gorgol, to postpone Item Nos. 5 and 7-13 to the April 7, 2020 meeting.

Mayor Pro Tem Stephens supported postponement of the items to a later date when public comment can be better integrated.

RESULT: ITEMS NOS. 5 AND 7-13 POSTPONED TO APRIL 7, 2020, ADOPTED [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Emily Gorgol, District 6
AYES: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Gutowsky, to postpone Item Nos. 1-4, 6, 16 and 17 be postponed to the April 21, 2020 meeting.

Mayor Pro Tem Stephens supported postponement of the items so as to ensure public comments are adequately captured.
RESULT: ITEMS NOS. 1-4, 6, 16, AND 17 POSTPONED TO APRIL 21, 2020, ADOPTED [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Susan Gutowsky, District 1
AYES: Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff

● PUBLIC COMMENT

(Public comment was done remotely, via teleconference only)

Cheryl Distaso expressed gratitude for the leadership provided by Council and discussed a petition being circulated by the Homeless Coalition calling for temporary quarantine housing, not just shelters, for people experiencing homelessness, a sensible plan for moving people into quarantine that takes into account the shortage of testing capabilities, and an immediate end to the camping ban enforcement.

Lynn Thompson, Fort Collins Homeless Coalition, thanked Beth Sowder for her hard work and ability to be gracious. She commended the decision to open the Atzlan Center as a shelter and encouraged the City to provide temporary housing as quickly as possible for those experiencing homelessness.

● PUBLIC COMMENT FOLLOW-UP

Mayor Troxell thanked the speakers and requested staff input regarding the issues discussed. City Manager Atteberry replied Beth Sowder will be providing a staff report on the issue shortly.

Mayor Pro Tem Stephens thanked the speakers and noted the City is working on ways to address these concerns, including the opening of the Atzlan Center.

Councilmember Cunniff asked if Sowder's comments will address an end to camping ban enforcement. City Manager Atteberry replied staff members will adapt their comments to include that topic.

● CONSENT CALENDAR

(Secretary's Note: All items on the Consent Agenda were postponed to alternative dates per previous motions.)

1. Second Reading of Ordinance No. 027, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Soldier Canyon Pump Station Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map. (Postponed to April 21, 2020)

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the annexation known as the Soldier Canyon Pump Station Annexation. Soldier Canyon Pump Station Annexation, owned by the Platte River Power Authority, is located adjacent to the City of Fort Collins Water Treatment Facility at 4316 Laporte Avenue and is 0.702 acres in
size. The proposed zoning for this annexation is Residential Foothills (R-F). The surrounding uses include the existing City Water Treatment Plant to the north, south and west, and Colorado State University Solar Farm to the east. The abutting City limits to the north, south and west are zoned Residential Foothills (R-F). Staff also recommends placement into the Residential Neighborhood Sign District.

2. **Second Reading of Ordinance No. 029, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 1 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.** (Postponed to April 21, 2020)

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the first of three sequential annexations, known as the Timberline-International Annexation No.1. Timberline-International Annexation No. 1 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

3. **Second Reading of Ordinance No. 031, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 2 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.** (Postponed to April 21, 2020)

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the second of three sequential annexations, known as the Timberline-International Annexation No. 2. Timberline-International Annexation No. 2 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

4. **Second Reading of Ordinance No. 033, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 3 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.** (Postponed to April 21, 2020)

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the third of three sequential annexations, known as the Timberline-International
Annexation No.3. Timberline-International Annexation No. 3 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

5. **Second Reading of Ordinance No. 041, 2020, Appropriating Unanticipated Black and Gray Market Marijuana Grant Revenue in the General Fund for Police Services.** *(Postponed to April 7, 2020)*

This Ordinance, unanimously adopted on First Reading on March 3, 2020, appropriates unanticipated grant revenue in the amount of $345,227 from the Colorado Department of Local Affairs in the General Fund to support investigation and prosecution of black-market marijuana activity.

6. **Second Reading of Ordinance No. 042, 2020, Reappropriating Funds Previously Appropriated in 2019 But Not Expended or Not Encumbered in 2019.** *(Postponed to April 21, 2020)*

This Ordinance, unanimously adopted on First Reading on March 3, 2020, reappropriates monies in 2020 that were previously authorized by City Council for expenditures in 2019 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2019 because:

- there was not sufficient time to complete bidding in 2019 and, therefore, there was no known vendor or binding contract as required to expend or encumber the monies,
- the project for which the dollars were originally appropriated by Council could not be completed during 2019 and reappropriation of those dollars is necessary for completion of the project in 2020, or
- the funds appropriated to be spent in 2019 to carry on some of the programs, services, and facility improvements were not spent or encumbered in 2019 for other reasons but continue to be needed for the same purposes in 2020.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2019 and reflect no change in Council policies.

7. **Second Reading of Ordinance No. 043, 2020, Adopting Revisions to the Master Street Plan.** *(Postponed to April 7, 2020)*

This Ordinance, unanimously adopted on First Reading on March 3, 2020, amends the Master Street Plan. The Master Street Plan (MSP) map serves as the official source for identification of street alignments and classifications for the City. The map shows both existing and future street locations. Updates to the map are done either through a request from a developer proposal or City initiated, based on changing plans, functions or information. The requests are City-initiated, and include amendments to the street system, add potential roundabout locations to the map, and update the potential railroad grade-separated crossing locations. These requested changes are in addition to the changes approved on January 14, 2020, for Montava.

8. **First Reading of Ordinance No. 045, 2020, Appropriating Unanticipated Philanthropic Revenue from New Belgium Brewing in the General Fund and Transferring it to the Capital Projects Fund for the Poudre River Reach 4 Feasibility Study.** *(Postponed to April 7, 2020)*

The purpose of this item is to appropriate $10,000 in philanthropic revenue in the General Fund for transfer to the Capital Projects Fund for the Reach 4 Feasibility Study by Park Planning & Development. The intent of the charitable gift, secured and facilitated by City Give, is designated by the donor, New Belgium Brewing, in support of the Reach 4 Feasibility Study.
The Reach 4 efforts focus on the feasibility of completing the improvements as called out in the Poudre River Downtown Master Plan. The Plan includes a conceptual site plan and cost estimate for Reach 4, located between the Whitewater Park and Linden Street. Reach 4 is particularly sensitive, as it is a former Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site. The study will help determine if/how the concept site plan and cost estimate provided in the Master Plan should be adjusted, based on a more robust analysis of the site conditions and preferred outcomes. These efforts will help inform a design and construction offer in the upcoming BFO process.

9. **First Reading of Ordinance No. 046, 2020, Appropriating Unanticipated Philanthropic Revenue from Veterans Plaza of Northern Colorado in the General Fund and Transferring it to the Capital Projects Fund for the Veterans Plaza Improvement Project.** *(Postponed to April 7, 2020)*

The purpose of this item is to appropriate $10,752 in philanthropic revenue in the General Fund for transfer to the Capital Projects Fund to be used for improvements at the Veterans Plaza in Spring Canyon Community Park. The charitable gift, facilitated by City Give, was made by Veterans Plaza of Northern Colorado. The charitable funding will underwrite the costs of improvements to construct a new sidewalk from the parking area to Veterans Plaza and provide other site improvements.

10. **First Reading of Ordinance No. 051, 2020, Authorizing the Sale of Real Property Located Adjacent to the Utilities Service Center at 700 Wood Street.** *(Postponed to April 7, 2020)*

The purpose of this item is to authorize the sale of City-owned real property located at approximately 525 North Whitcomb Street, adjacent to the City’s Utilities Services Center located at 700 Wood Street. The property is a small offsetting portion of the Utility Service Center development and consists of 1,680 square feet. The buyers are the owners of real property at 525 North Whitcomb Street. The sale price is $6,720 and the proceeds will be placed in the Light and Power Fund.

11. **First Reading of Ordinance No. 052, 2020, Authorizing the Conveyance of a Permanent Sanitary Sewer Line Easement and a Temporary Construction Easement on Soaring Vista Natural Area to South Fort Collins Sanitation District.** *(Postponed to April 7, 2020)*

The purpose of this item is to authorize the conveyance of a permanent sanitary sewer line easement and a temporary construction easement to South Fort Collins Sanitation District (SFCSD) on behalf of Interstate Land Holdings, LLC (ILH) on Soaring Vista Natural Area. The proposed easement area aligns with an existing sewer line easement held by South Fort Collins Sanitation District on the west side of the natural area.

12. **Resolution 2020-026 Authorizing an Amendment to the Intergovernmental Agreement with Larimer County, Colorado for the Larimer County Conservation Corps Energy and Water Program.** *(Postponed to April 7, 2020)*

The purpose of this item is to seek City Council approval of an amendment to an Intergovernmental Agreement (IGA) between the City of Fort Collins and Larimer County for funding of the Larimer County Conservation Corps (LCCC) Water and Energy Program. The City of Fort Collins Utilities has partnered with the LCCC since 2010 with tremendous success. LCCC crews have supported local resource conservation by providing home efficiency assessments to customers of Fort Collins Utilities and Loveland Water and Power. By the end of the 2019 spring season, LCCC crews assessed over 3,500 homes in Fort Collins and enabled these customers to save on their utility bills. Due to its success, the Program is now part of Utilities Affordability Portfolio and provides a mechanism for low to moderate income customers to control home energy use and costs.
13. **Resolution 2020-031 Finding Substantial Compliance and Initiating Annexation Proceedings for the One Twenty Eight Racquette Drive Annexation.** (Postponed indefinitely)

This is a 100% voluntary annexation. The property contained within the annexation area is approximately 35,000 square feet and abuts the Fort Collins Airpark, 365 feet west of the Dry Creek subdivision. The proposed zoning for this annexation is Industrial (I).

On January 21, 2020, Council adopted Resolution 2020-010 initiating annexation proceedings for the One Twenty Eight Racquette Drive Annexation and scheduling a hearing date of March 17, 2020 for the proposed annexation. Due to current events around COVID-19 City Council was not able to assemble a quorum to hold the scheduled public hearing on March 17, 2020. As a result, the statutory timing requirement that an annexation hearing must occur within 60 days after the effective date of the initiating resolution was not met. This new Resolution will reinitiate annexation proceedings for One Twenty Eight Racquette Drive.

The proposed Resolution makes a finding that the annexation petition substantially complies with the Municipal Annexation Act of 1965, determines that a hearing should be established regarding the annexation, and directs notice be given of the hearing. The hearing will be held at the time of First Reading of the annexation and zoning ordinances, and notice will be published and distributed as required by State law.

It should be noted that though this annexation does comply with state statute, the property currently contains a land use that has not been established/permitted within Larimer County. The City of Fort Collins Land Use Code requires the property owner or representative thereof to submit a development application within 60 days of the effective date of the annexation in order to legally establish the land use in the City of Fort Collins.

**END CONSENT**

**STAFF REPORTS**

A. **Staff Report: COVID-19 Update.** (staff: Jim Byrne)

Jim Byrne, Director of Emergency Preparedness and Security, discussed the biggest changes regarding the COVID-19 pandemic in the past week, including the stay-at-home orders issued by both the state and county, and the state's disaster declaration which will trigger some eligibility for funding for jurisdictions across the state. He discussed exceptions to the stay-at-home order which include all government services but noted the City organization remains committed to practicing proper social distancing. He stated this disaster is different in that it is being dealt with as it is occurring while normal business is still occurring, and recovery efforts are simultaneously being considered.

Jeff Swoboda, Police Chief, stated Police Services is still operating normally; however, there are additional questions being asked by phone personnel and officers are responding somewhat differently to calls. He outlined a new online reporting method and noted officers are not enforcing the stay-at-home order but are using educational methods to address obvious large gatherings. He highlighted one troubling incident of an officer impersonation at Harmony and Timberline.

Beth Sowder, Director of Social Sustainability, discussed the use of the Northside Atzlan Center as a shelter for anyone during the day and evening and overnight for men. The women’s overnight shelter remains at the Fort Collins Rescue Mission and Community of Christ, operated...
by Catholic Charities. She discussed the partnering agencies and health screening protocols and noted the County will be opening the Ranch facility with ten beds to start.

Sowder stated the City has been working with the County to identify some options for temporary housing and noted the existing housing placement system is still placing people into housing.

SeonAh Kendall, Senior Economic Manager, stated her office has opted to address two focus areas: recovery and immediate responses for businesses. Work is being done with Colorado State University and the City of Loveland to determine the extent of the economic impact and she discussed the Fort Collins Relief and Recovery Fund which should be rolled out soon. She encouraged small business owners to utilize the City's webpage for resources and announced two business town hall virtual meetings on April 6 and 9.

City Manager Atteberry discussed the importance of utilities services and noted they are performing flawlessly.

Mayor Pro Tem Stephens thanked the staff for their hard work and commended the efforts around providing housing for homeless individuals. She encouraged quicker translation of emergency information into Spanish and encouraged citizens to be vigilant around possible scams related to stimulus checks and other items. She requested staff provide information as to where citizens can find information about filling food needs or rent assistance. Byrne replied all necessary information has been translated to Spanish at this point and encouraged citizens looking for information to start with the City's webpage.

Jackie Kozak-Thiel, Chief Sustainability Officer, stated the City is working with the United Way of Larimer County to provide coordinated responses in a bilingual fashion. Additionally, Poudre School District is providing robo-calls to Spanish and Arabic speaking families to provide information.

Mayor Pro Tem Stephens requested information regarding providing support to community members with disabilities or health issues that would prevent them from going out. Kozak-Thiel replied the Adopt a Neighbor program is available for residents to help others.

Councilmember Gutowsky commended the work of City employees and thanked Chief Swoboda for clarifying the role of Police Services at this time. She requested additional information on the small business town hall meetings and how seniors, particularly in apartment buildings, are being aided. City Manager Atteberry replied he is of the understanding that Adopt a Neighbor volunteers have been hanging door hangers in various facilities, but he would confirm in a follow-up.

Councilmember Gorgol thanked City staff for their work and encouraged a diversification of how messaging is provided. She noted the United Way may not be a trusted source for all community members. She requested information as to how businesses should be reported if they are unnecessarily open and asked about possibly using hotel rooms for individuals needing to quarantine. Sowder replied there have been efforts at working with hotels and motels; however, there have been no respondents who wish to lease rooms to individuals experiencing homelessness whether symptomatic or not. She stated there may be other ways to get long-term room leases with some of the state disaster funding.
Councilmember Gorgol asked if there is a plan for individual citizen recovery as well as small business recovery. Kozak-Thiel replied staff is taking a triple bottom line approach to planning for recovery while still ensuring existing critical needs are being met.

Regarding reporting open businesses, Chief Swoboda replied Police Services is working with the Department of Health and the Emergency Operations Center to coordinate responses.

Kendall provided details on the small business town hall meetings and stated staff is working on communicating information about the dates and times.

Councilmember Summers stated Serve 6.8 has been making daily deliveries to disabled individuals and seniors.

Mayor Troxell requested additional information regarding the Adopt a Neighbor program. City Manager Atteberry replied every application for assistance has been matched with someone to provide it through the program.

**COUNCILMEMBER REPORTS**

Mayor Troxell commented on his self-quarantine and assured citizens the City organization is doing everything possible to be diligent, reliable, and responsive while keeping the community safe. The City is working closely with its partners to address the needs of the most vulnerable populations, particularly around food insecurity, language access, and homelessness services.

Mayor Pro Tem Stephens commended City staff and volunteers, citing the importance of physical distancing without losing touch with neighbors, friends, and loved ones. She encouraged citizens to seek mental health services as needed and commended community spirit.

**CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS**


*The purpose of this item is to approve emergency rules and regulations enacted by the City Manager between March 17 and March 25, 2020, in response to the COVID-19 emergency. Section 2-671(a)(6)(a) of the City Code provides that the emergency rules and regulations must be confirmed at the earliest practical time by the City Council. This Resolution seeks Council’s approval and ratification of the emergency measures.*

City Manager Atteberry stated the purpose of this item is to approve emergency rules and regulations that he enacted between March 17 and March 30, 2020, in response to the COVID-19 emergency. Five measures were put in place: an emergency regulation authorizing purchases pursuant to the City Code, an emergency regulation suspending certain legal requirements to allow operation of a day shelter, homeless shelter, and or seasonal or overflow shelter at the Northside Atzlan Community Center, an emergency regulation suspending fares for all Transfort bus services within the city, including Flex, MAX, and all Dial-a-Ride services, an emergency regulation suspending the operation of the requirements of City Code Chapter 26 related to disconnecting of City non-telecommunications utilities services because of late payment, and an amended emergency regulation suspending the prohibition of occupying recreational vehicles on private property.
City Attorney Daggett noted there was an updated version of this Resolution posted on the website yesterday.

Mayor Pro Tem Stephens stated she has received questions about how to physically distance on busses and why they are continuing to run if people are to stay home. She noted there are essential workers who may use transit and many citizens are dependent upon bus service as their only means of transportation. City Manager Atteberry stated Transfort has taken physical distancing very seriously and is asking people to enter buses from the back entrance. He stated buses are getting deep cleaned daily.

Mayor Troxell requested information as to closures of parks and golf courses. City Manager Atteberry replied all City cultural and recreational facilities were closed early on. At this point, parks, trails, and natural areas are open. Golf courses were kept open for golf and other users for several days but have been shut to golfers as there were challenges from the perspective of errant golf balls affecting individuals using golf courses to walk. He requested any walkers using golf course facilities be respectful of greens and pick up dog waste. Additionally, he stated all playgrounds in community parks, some in neighborhood parks, and the Edora skate park will be gated off.

John Stokes, Community Services Deputy Director, concurred with City Manager Atteberry on closures but noted all skate parks are closed.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Summers, to adopt Resolution 2020-032, as amended.

Councilmember Cunniff commended the work of City staff on keeping the community safe while still providing essential services.

| RESULT: | RESOLUTION 2020-032 ADOPTED AS AMENDED [UNANIMOUS] |
| MOVER: | Kristin Stephens, District 4 |
| SECONDER: | Ken Summers, District 3 |
| AYES: | Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff |

15. **Resolution 2020-033 Establishing City Council’s Intent that Appropriate Members of Congress and the Colorado General Assembly be Advised of the City’s Interests in Pending and Prospective COVID-19 Related Legislation. (Adopted)**

The COVID-19 pandemic crisis has resulted in the federal government packaging massive pieces of legislation together in short periods of time to try and provide resources to assist in dealing with the crisis and in helping with recovery. After introduction, these bills have been voted upon within a few days, sometimes that same day. Many of the City’s federal partners, such as the National League of Cities, Colorado Municipal League, or the International City/County Management Association have alerted the City to issues within these bills that either leave cities out of funding pots, result in unfunded mandates to the City, or in some cases, restrict our ability to access funding because of our population size.

The 2020 Legislative Policy Agenda, while covering topics such as resiliency, local control, and unfunded mandates, does not specifically address the bills, funding sources, or emergency management nature of this problem. Therefore, staff is requesting approval of this resolution, which will allow staff to quickly alert Colorado’s Congressional delegation to issues that have economic consequences to Fort Collins related to COVID-19. While the third economic package, expected to
pass the same week as of this writing, is currently being communicated as the last, this resolution would still allow staff to quickly chime into processes that affect any additional packages that may be introduced, cleanup legislation, budget discussions related to this, or regulatory processes. Staff anticipates that when the state legislature reconvenes, they too may take up legislation related to COVID-19. The resolution is also written to include advocacy at the state level for similar topics.

Amber Lane stated it is difficult using this technology to follow along with the meeting. She expressed concern about native communities and marginalized populations. She also expressed concern about going back to business as usual.

Mayor Troxell stated emergency rules are temporary within the extent of the emergency period and it is not likely to be business as usual.

Mayor Pro Tem Stephens stated she spoke to Congressman Joe Neguse today regarding federal funding going directly to cities and counties and he assured her that would be kept in mind for future stimulus packages.

Mayor Pro Tem Stephens made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2020-033.

Mayor Troxell thanked Mayor Pro Tem Stephens for her work on this topic.

| RESULT: | RESOLUTION 2020-033 ADOPTED [UNANIMOUS] |
| MOVER: | Kristin Stephens, District 4 |
| SECONDER: | Ross Cunniff, District 5 |
| AYES: | Pignataro, Gorgol, Gutowsky, Summers, Stephens, Troxell, Cunniff |

● DISCUSSION ITEMS


The purpose of this item is consideration of the opinion of the Ethics Review Board to Council for its consideration and possible approval.

(Secretary’s Note: Per the motion earlier in the meeting, consideration of this item was postponed to April 21, 2020.)

17. Public Hearing and Second Reading of Ordinance No. 138, 2019, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hughes Stadium Site Rezoning and Approving Corresponding Changes to the Residential Neighborhood Sign District Map. (Postponed to April 21, 2020)

This Ordinance, adopted on First Reading on November 5, 2019, by a vote of 4-3 (Nays: Cunniff, Gutowsky, Pignataro), rezones 164.55 acres located on the west side of Overland Trail and north of CR32, with one condition, and to place the property into the Residential Sign District. City Council initiated the rezoning on July 16, 2019 and directed City staff to prepare a rezoning application and make a recommendation regarding the appropriate zoning. The site is currently zoned Transition (T) and staff recommends placement into the Residential Foothills (RF) and Low-Density Mixed-Use Neighborhood (LMN) zone districts. A recommended condition of the rezone requires that future development in the portion zoned Residential Foothills district meet the requirements of a Cluster Plan pursuant to Land Use Code Section 4.3(E)(2). The request places the property into the Residential Sign District. The Planning and Zoning Board on a 4-2 vote recommended that City
March 31, 2020

Council not adopt the staff proposed zoning and instead zone the property entirely Residential Foothills.

(Secretary's Note: Per the motion earlier in the meeting, consideration of this item was postponed to April 21, 2020.)

• OTHER BUSINESS

A. Consideration of a motion to adjourn into executive session related to broadband issues.

RESULT: WITHDRAWN

B. Consideration of a motion to adjourn into executive session relating environmental issues at the landfill.

RESULT: WITHDRAWN

• ADJOURNMENT

The meeting adjourned at 8:13 PM.

__________________________________________________________
Mayor

ATTEST:

__________________________________________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT
Postponement of Second Reading of Ordinance No. 027, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Soldier Canyon Pump Station Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

EXECUTIVE SUMMARY
This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the annexation known as the Soldier Canyon Pump Station Annexation. Soldier Canyon Pump Station Annexation, owned by the Platte River Power Authority, is located adjacent to the City of Fort Collins Water Treatment Facility at 4316 Laporte Avenue and is 0.702 acres in size. The proposed zoning for this annexation is Residential Foothills (R-F). The surrounding uses include the existing City Water Treatment Plant to the north, south, and west, and Colorado State University Solar Farm to the east. The abutting City limits to the north, south and west are zoned Residential Foothills (R-F). Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, February 4, 2020 (w/o attachments) (PDF)
2. Ordinance No. 027, 2020 (PDF)
AGENDA ITEM SUMMARY
February 4, 2020

STAFF

Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT

Public Hearing and First Reading of Ordinance No. 027, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Soldier Canyon Pump Station Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.

EXECUTIVE SUMMARY

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to apply a zoning to the property included in the annexation known as the Soldier Canyon Pump Station Annexation. Soldier Canyon Pump Station Annexation, owned by the Platte River Power Authority, is located adjacent to the City of Fort Collins Water Treatment Facility at 4316 Laporte Avenue and is 0.702 acres in size. The proposed zoning for this annexation is Residential Foothills (R-F). The surrounding uses include the existing City Water Treatment Plant to the north, south and west, and Colorado State University Solar Farm to the east. The abutting City limits to the north, south and west are zoned Residential Foothills (R-F). Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The requested zoning for this annexation is the Residential Foothills (R-F) Zone District, which conforms to the larger surrounding area of existing light industrial businesses, including the City Water Treatment Plant and Solar Farm.

The surrounding land uses are as follows:

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>Residential Foothills (RF)</td>
</tr>
<tr>
<td>S</td>
<td>Residential Foothills (RF)</td>
</tr>
<tr>
<td>E</td>
<td>County FA1 - Farming Zone District</td>
</tr>
<tr>
<td>W</td>
<td>Residential Foothills (RF)</td>
</tr>
</tbody>
</table>

City Water Treatment Plant
City Water Treatment Plant
Colorado State University - Solar Farm
City Water Treatment Plant
Zoning

The proposed zoning for this annexation is the Residential Foothills (R-F) Zone District, which is consistent with the City of Fort Collins Structure Plan and matches the adjacent zoning for the Water Treatment Plant. The Structure Plan identifies a “Campus District” place type for this area. The Land Use Code describes the Residential Foothills Zone District as follows:

“Purpose. The Residential Foothills District designation is for low density residential areas located near the foothills.”

Additionally, staff recommends that the subject property be included in the Residential Neighborhood Sign District, which was established for regulating signs for non-residential uses in predominantly residential settings.

CITY FINANCIAL IMPACTS

No direct financial impacts result of the proposed zoning.

BOARD / COMMISSION RECOMMENDATION

At its December 19, 2019, meeting, the Planning and Zoning Board voted 5-0 to recommend approval of the annexation and recommend that the property be placed in the Residential Foothills (R-F) Zone District. Since the item remained on the Planning and Zoning Board’s Consent Calendar, minutes from the hearing will not be provided.

PUBLIC OUTREACH

All required mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

ATTACHMENTS

1. Zoning Map (PDF)
ORDINANCE NO. 027, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS
AND CLASSIFYING FOR ZONING PURPOSES THE PROPERTY INCLUDED
IN THE SOLDIER CANYON PUMP STATION ANNEXATION TO THE
CITY OF FORT COLLINS, COLORADO, AND APPROVING CORRESPONDING
CHANGES TO THE RESIDENTIAL NEIGHBORHOOD SIGN DISTRICT MAP

WHEREAS, Division 1.3 of the Land Use Code of the City of Fort Collins establishes the
Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code of the City of Fort Collins establishes
procedures and criteria for reviewing the zoning of land; and

WHEREAS, pursuant to Land Use Code Section 2.9.2, the City Planning and Zoning
Board, at its meeting on December 19, 2019, unanimously recommended zoning the property to
be known as the Soldier Canyon Pump Station Annexation (the “Property”) as more particularly
described below as Residential Foothills (“R-F”), and determined that the proposed zoning is
consistent with the City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that the proposed zoning of the Property, as
described below is consistent with the City’s Comprehensive Plan; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed
zoning against the applicable criteria set forth in Section 2.9.4(H)(3) of the Land Use Code and
finds the proposed zoning to be in compliance with all such criteria; and

WHEREAS, in accordance with the foregoing, the City Council has considered the zoning
of the Property as described below, finds it to be in the best interests of the City, and has determined
that the Property should be zoned as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.

Section 2. That the Zoning Map of the City of Fort Collins adopted pursuant to Section
1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including
in the Residential Foothills (“R-F”) Zone District the Property more particularly described as:

A parcel of land, located in the Northwest Quarter (NW1/4) of Section Eight (8), Township
Seven North (T.7N.), Range Sixty-nine West (R.69W.) of the Sixth Principal Meridian (6th
P.M.), County of Larimer, State of Colorado and being more particularly described as follows:
COMMENCING at the Northeast corner of the Water Treatment Facility Annexation No. 4 recorded March 7, 2018 as Reception No. 20180013461 of the Records of Larimer County and assuming the East line of said Water Treatment Facility Annexation No. 4 as bearing South 11°53’09” East a distance of 1000.96 feet with all other bearings contained herein relative thereto;

THENCE South 11°53’09” East along the East line of said Water Treatment Facility Annexation No. 4 a distance of 1000.96 feet to the POINT OF BEGINNING;

THENCE South 11°53’09” East a distance of 95.20 feet;
THENCE South 10°51’20” East a distance of 79.81 feet to the East line of said Water Treatment Facility Annexation No. 4;
The following Three (3) courses are along the Easterly lines of said Water Treatment Facility Annexation No. 4;
THENCE South 78°06’51” West a distance of 173.57 feet;
THENCE North 11°53’09” West a distance of 175.00 feet;
THENCE North 78°06’51” East a distance of 175.01 feet to the POINT OF BEGINNING.

Said described parcel of land contains 30,569 square feet or 0.702 acres, more or less

Section 3. That the Sign District Map adopted pursuant to Section 3.8.7.1(E) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the Property described herein is included in the Residential Neighborhood Sign District.

Section 4. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of February, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

______________________________
Mayor

ATTEST:

______________________________
City Clerk
Passed and adopted on final reading on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

April 21, 2020

STAFF
Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT
Postponement of Second Reading of Ordinance No. 029, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 1 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

EXECUTIVE SUMMARY
This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the first of three sequential annexations, known as the Timberline-International Annexation No.1. Timberline-International Annexation No. 1 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, February 4, 2020 (w/o attachments) (PDF)
2. Ordinance No. 029, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

February 4, 2020

STAFF

Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT

Public Hearing and First Reading of Ordinance No. 029, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 1 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.

EXECUTIVE SUMMARY

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to apply zoning to the property included in the first of three sequential annexations, known as the Timberline-International Annexation No. 1. Timberline-International Annexation No. 1 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The requested zoning for this annexation is the Industrial (I) Zone District, which conforms to the larger surrounding area of existing industrial businesses and single-family residential homes.

The surrounding land uses are as follows:

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>County I (Industrial)</td>
</tr>
<tr>
<td>S</td>
<td>County I (Industrial)</td>
</tr>
<tr>
<td>E</td>
<td>City Low Density Mixed-Use Residential (LMN)</td>
</tr>
<tr>
<td>W</td>
<td>County I (Industrial)</td>
</tr>
</tbody>
</table>

Existing industrial

North Timberline Road right-of-way

Existing industrial

Packet Pg. 37

Attachment: First Reading Agenda Item Summary, February 4, 2020 (w/o attachments) (8972 : SR 029 Timberline-International No. 1 Zoning)
East Mulberry Corridor Plan

The tract of land is located within the East Mulberry Corridor Plan, adopted in 2002, which covers an area of approximately 3.5 square miles of along both sides of East Mulberry Street between Riverside Drive and I-25 in Fort Collins and Larimer County, within the Growth Management Area. The Plan states:

“The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing.”

According to the East Corridor Plan Land Use Map, the subject tract of land should be placed into the Industrial Zone District. The proposed zoning, industrial (I), complies with the subarea plan.

Zoning

The proposed zoning for this annexation is the Industrial (I) Zone District. The City of Fort Collins Land Use Code describes this zone district as follows:

“Purpose. The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing. While these Districts will be linked to the City’s transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.”

Additionally, staff recommends that the subject property be included in the Residential Neighborhood Sign District, which was established for regulating signs for non-residential uses in predominantly residential settings.

CITY FINANCIAL IMPACTS

No direct financial impacts result of the proposed zoning.

BOARD / COMMISSION RECOMMENDATION

At its December 19, 2019, meeting, the Planning and Zoning Board voted 5-0 to recommend approval of the annexation and recommend that the property be placed in the Industrial (I) Zone District. Since the item remained on the Planning and Zoning Board’s Consent Calendar, minutes from the hearing will not be provided.

PUBLIC OUTREACH

All required mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

A neighborhood meeting was held on August 29, 2019, for the annexation and zoning and conceptual plans for the Timberline-International property.

ATTACHMENTS

1. Annexation Sequence Map (PDF)
2. Zoning Map (PDF)
ORDINANCE NO. 029, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS
AND CLASSIFYING FOR ZONING PURPOSES THE PROPERTY INCLUDED
IN THE TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 TO THE CITY OF FORT COLLINS, COLORADO, AND APPROVING CORRESPONDING CHANGES TO THE RESIDENTIAL NEIGHBORHOOD SIGN DISTRICT MAP

WHEREAS, Division 1.3 of the Land Use Code of the City of Fort Collins establishes the Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code of the City of Fort Collins establishes procedures and criteria for reviewing the zoning of land; and

WHEREAS, pursuant to Land Use Code Section 2.9.2, the City Planning and Zoning Board, at its meeting on December 19, 2019, unanimously recommended zoning the property to be known as the Timberline-International Annexation No. 1 (the “Property”) as more particularly described below as Industrial (“I”), and determined that the proposed zoning is consistent with the City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that the proposed zoning of the Property, as described below is consistent with the City’s Comprehensive Plan; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed zoning against the applicable criteria set forth in Section 2.9.4(H)(3) of the Land Use Code and finds the proposed zoning to be in compliance with all such criteria; and

WHEREAS, in accordance with the foregoing, the City Council has considered the zoning of the Property as described below, finds it to be in the best interests of the City, and has determined that the Property should be zoned as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the Zoning Map of the City of Fort Collins adopted pursuant to Section 1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including in the Industrial (“I”) Zone District the Property more particularly described as:

That portion of Section 8, Township 7 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:
Considering the East line of the Northwest Quarter of said Section 8 as bearing North 00°00'45" East and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of the Northwest Quarter of said Section 8; thence along the East line of said Northwest Quarter of said Section 8 North 00°00'45" East 56.00 feet, more or less, to a point on the Southerly line of EAST RIDGE ANNEXATION, City of Fort Collins, County of Larimer, State of Colorado; said point being the TRUE POINT OF BEGINNING; thence departing said East line of said Northwest Quarter of said Section 8 and along said Southerly line of EAST RIDGE ANNEXATION South 89°32'31" East 30.00 feet, more or less, to a point on the Easterly right-of-way line of Timberline Road; thence departing said Southerly line of EAST RIDGE ANNEXATION and departing said Easterly right-of-way line of Timberline Road South 21°26'47" West 109.41 feet; thence North 21°19'20" West 110.00 feet, more or less, to a point on the Westerly right-of-way line of Timberline Road; said point also being the Southwest corner of said EAST RIDGE ANNEXATION; thence departing said Westerly right-of-way line of Timberline Road and along said Southerly line of EAST RIDGE ANNEXATION South 89°32'31" East 50.00 feet, more or less, to a point on the East line of said Northwest Quarter of said Section 8 and the TRUE POINT OF BEGINNING.

Containing 4,086.0 square feet (0.09 Acres), more or less.

Section 3. That the Sign District Map adopted pursuant to Section 3.8.7.1(E) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the Property described is included in the Residential Neighborhood Sign District.

Section 4. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of February, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

______________________________
Mayor

ATTEST:

______________________________
City Clerk
Passed and adopted on final reading on the 21st day of April, A.D. 2020.

_____________________________
Mayor

_____________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT
Postponement of Second Reading of Ordinance No. 031, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 2 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

EXECUTIVE SUMMARY
This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the second of three sequential annexations, known as the Timberline-International Annexation No. 2. Timberline-International Annexation No. 2 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, February 4, 2020 (w/o attachments) (PDF)
2. Ordinance No. 031, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

February 4, 2020

STAFF

Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT

Public Hearing and First Reading of Ordinance No. 031, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 2 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.

EXECUTIVE SUMMARY

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to apply zoning to the property included in the second of three sequential annexations, known as the Timberline-International Annexation No. 2. Timberline-International Annexation No. 2 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The requested zoning for this annexation is the Industrial (I) Zone District, which conforms to the larger surrounding area of existing industrial businesses and single-family residential homes.

The surrounding land uses are as follows:

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>County I (Industrial) Existing industrial</td>
</tr>
<tr>
<td>S</td>
<td>County I Existing industrial</td>
</tr>
<tr>
<td>E</td>
<td>City Low Density Mixed-Use Residential (LMN) North Timberline Road right-of-way</td>
</tr>
<tr>
<td>W</td>
<td>County I Existing industrial</td>
</tr>
</tbody>
</table>
East Mulberry Corridor Plan

The tract of land is located within the East Mulberry Corridor Plan, adopted in 2002, which covers an area of approximately 3.5 square miles of along both sides of East Mulberry Street between Riverside Drive and I-25 in Fort Collins and Larimer County, within the Growth Management Area. The Plan states:

“The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing.”

According to the East Corridor Plan Land Use Map, the subject tract of land should be placed into the Industrial Zone District. The proposed zoning, Industrial (I), complies with the subarea plan.

Zoning

The proposed zoning for this annexation is the Industrial (I) Zone District. The City of Fort Collins Land Use Code describes this zone district as follows:

“Purpose. The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing. While these Districts will be linked to the City’s transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.”

Additionally, staff recommends that the subject property be included in the Residential Neighborhood Sign District, which was established for regulating signs for non-residential uses in predominantly residential settings.

CITY FINANCIAL IMPACTS

No direct financial impacts result of the proposed zoning.

BOARD / COMMISSION RECOMMENDATION

At its December 19, 2019, meeting, the Planning and Zoning Board voted 5-0 to recommend approval of the annexation and recommend that the property be placed in the Industrial (I) Zone District. Since the item remained on the Planning and Zoning Board’s Consent Calendar, minutes from the hearing will not be provided.

PUBLIC OUTREACH

All required mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

A neighborhood meeting was held on August 29, 2019, for the annexation and zoning and conceptual plans for the Timberline-International property.

ATTACHMENTS

1. Annexation No. 2 Sequence Map (PDF)
2. Zoning Map (PDF)
ORDINANCE NO. 031, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS AND
CLASSIFYING FOR ZONING PURPOSES THE PROPERTY INCLUDED IN THE
TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 TO THE CITY OF FORT
COLLINS, COLORADO, AND APPROVING CORRESPONDING CHANGES TO
THE RESIDENTIAL NEIGHBORHOOD SIGN DISTRICT MAP

WHEREAS, Division 1.3 of the Land Use Code of the City of Fort Collins establishes the
Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code of the City of Fort Collins establishes
procedures and criteria for reviewing the zoning of land; and

WHEREAS, pursuant to Land Use Code Section 2.9.2, the City Planning and Zoning
Board, at its meeting on December 29, 2019, unanimously recommended zoning the property to
be known as the Timberline-International Annexation No. 2 (the “Property”) as more particularly
described below as Industrial (“I”), and determined that the proposed zoning is consistent with the
City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that the proposed zoning of the Property, as
described below is consistent with the City’s Comprehensive Plan; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed
zoning against the applicable criteria set forth in Section 2.9.4(H)(3) of the Land Use Code and
finds the proposed zoning to be in compliance with all such criteria; and

WHEREAS, in accordance with the foregoing, the City Council has considered the zoning
of the Property as described below, finds it to be in the best interests of the City, and has determined
that the Property should be zoned as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.

Section 2. That the Zoning Map of the City of Fort Collins adopted pursuant to Section
1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including
in the Industrial (“I”) Zone District the Property more particularly described as:

That portion of Section 8, Township 7 North, Range 68 West of the 6th P.M., County of
Larimer, State of Colorado being more particularly described as follows:
Considering the East line of the Northwest Quarter of said Section 8 as bearing North 00°00'45" East and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of the Northwest Quarter of said Section 8; thence along the East line of said Northwest Quarter of said Section 8 North 00°00'45" East 56.00 feet, more or less, to a point on the Southerly line of EAST RIDGE ANNEXATION, City of Fort Collins, County of Larimer, State of Colorado and the Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1, City of Fort Collins, County of Larimer, State of Colorado; thence departing said East line of said Northwest Quarter of said Section 8 and along said Southerly line of EAST RIDGE ANNEXATION and along said Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 South 89°32'31" East 30.00 feet, more or less, to a point on the Easterly right-of-way line of Timberline Road and the TRUE POINT OF BEGINNING; thence departing said Southerly line of EAST RIDGE ANNEXATION and departing said Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 and along said Easterly right-of-way line of Timberline Road the following four (4) courses and distances: South 00°00'45" West 56.00 feet; South 00°00'45" West 236.46 feet; South 88°09'05" East 39.91 feet to the beginning of a non-tangent curve concave to the West having a central angle of 05°44'34" and a radius of 1170.50 feet, the long chord of which bears South 04°41'28" West a distance of 117.27 feet; thence Southerly along the arc of said curve 117.32 feet; thence departing said Easterly right-of-way line of Timberline Road North 90°00'00" West 141.91 feet, more or less, to a point on the Southerly line of International Boulevard; said point also being a point on the Easterly line of Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING., County of Larimer, State of Colorado; thence along said Southerly line of International Boulevard and along the Easterly and Northerly lines of said Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING North 44°58'04" West 7.47 feet and again North 89°35'04" West 4.11 feet, thence departing said Southerly line of International Boulevard and departing said Northerly line of said Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING North 00°24'56" East 100.00 feet, more or less, to a point on the Northerly line of International Boulevard; said point also being the Southwest corner of Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D., County of Larimer, State of Colorado; thence along said Northerly line of International Boulevard and along the Southerly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. South 89°35'04" East 40.28 feet, more or less, to the Southeast corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D.; said point also being the Southwest corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and a point on the Westerly right-of-way line for Timberline Road; thence departing said Northerly line of International Boulevard and departing said Southerly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and along said Westerly right-of-way line for Timberline Road and along the Easterly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. North 00°00'45" West 250.02 feet and again North 00°00'45" East 56.23 feet, more or less, to the Southwest corner of said EAST RIDGE ANNEXATION and the Northwest corner of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1; thence departing said Westerly right-of-way line for Timberline Road and departing said Easterly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and
along the Southwesterly and Southeasterly lines of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 South 21°19’20” East 110.00 feet and again North 21°26’47” East 109.41 feet, more or less, to a point on the Southerly line of said EAST RIDGE ANNEXATION and the Easterly right-of-way line of Timberline Road and the Northeast corner of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 and the TRUE POINT OF BEGINNING.

Containing 37,272.2 square feet (0.86 Acres), more or less.

Section 3. That the Sign District Map adopted pursuant to Section 3.8.7.1(E) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the Property described herein is included in the Residential Neighborhood Sign District.

Section 4. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of February, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

STAFF

Pete Wray, Senior City Planner
Brad Yatabe, Legal

SUBJECT

Postponement of Second Reading of Ordinance No. 033, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 3 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

EXECUTIVE SUMMARY

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, unanimously adopted on First Reading on February 4, 2020, zones the property included in the third of three sequential annexations, known as the Timberline-International Annexation No.3. Timberline-International Annexation No. 3 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, February 4, 2020 (w/o attachments) (PDF)
2. Ordinance No. 033, 2020 (PDF)
AGENDA ITEM SUMMARY  
City Council  
February 4, 2020

STAFF

Pete Wray, Senior City Planner  
Brad Yatabe, Legal

SUBJECT

First Reading of Ordinance No. 033, 2020, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Timberline-International Annexation No. 3 to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.

EXECUTIVE SUMMARY

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council’s Rules of Meeting Procedures adopted in Resolution 2019-064.

The purpose of this item is to zone the property included in the third of three sequential annexations, known as the Timberline-International Annexation No.3. Timberline-International Annexation No. 3 is located northeast of the North Timberline Road and International Boulevard intersection. The proposed zoning for this annexation is Industrial (I). The surrounding properties are existing industrial land uses currently zoned I-Industrial Zoning District (in Larimer County) to the north, south and west. The abutting City limit to the east is zoned Low Density Mixed-Use Neighborhood (L-M-N) and consists of North Timberline Road right-of-way. Staff also recommends placement into the Residential Neighborhood Sign District.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The requested zoning for this annexation is the Industrial (I) Zone District, which conforms to the larger surrounding area of existing industrial businesses and single-family residential homes.

The surrounding land uses are as follows:

<table>
<thead>
<tr>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>County I (Industrial)</td>
</tr>
<tr>
<td>S</td>
<td>County I</td>
</tr>
<tr>
<td>E</td>
<td>City Low Density Mixed-Use Residential (LMN)</td>
</tr>
<tr>
<td>W</td>
<td>County I</td>
</tr>
</tbody>
</table>
East Mulberry Corridor Plan

The tract of land is located within the East Mulberry Corridor Plan, adopted in 2002, which covers an area of approximately 3.5 square miles of along both sides of East Mulberry Street between Riverside Drive and I-25 in Fort Collins and Larimer County within the Growth Management Area. The Plan states:

“The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing.”

According to the East Corridor Plan Land Use Map, the subject tract of land should be placed into the Industrial zone district. The proposed zoning, Industrial (I), complies with the subarea plan.

Zoning

The proposed zoning for this annexation is the Industrial (I) Zone District. The City of Fort Collins Land Use Code describes this zone district as follows:

“Purpose. The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers and housing. While these Districts will be linked to the City’s transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.”

Additionally, staff recommends that the subject property be included in the Residential Neighborhood Sign District, which was established for regulating signs for non-residential uses in predominantly residential settings.

CITY FINANCIAL IMPACTS

No direct financial impacts result of the proposed zoning.

BOARD / COMMISSION RECOMMENDATION

At its December 19, 2019, meeting, the Planning and Zoning Board voted 5-0 to recommend approval of the annexation and recommend that the property be placed in the Industrial (I) Zone District. Since the item remained on the Planning and Zoning Board’s Consent Calendar, minutes from the hearing will not be provided.

PUBLIC OUTREACH

All required mailings and postings per Section 2.9 (Amending the Zoning Map) and 2.12 (Annexation of Land) of the Land Use Code have been followed.

A neighborhood meeting was held on August 29, 2019, for the annexation and zoning and conceptual plans for the Timberline-International property.

ATTACHMENTS

1. Annexation No. 3 Sequence Map (PDF)
2. Zoning Map (PDF)
ORDINANCE NO. 033, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS
AND CLASSIFYING FOR ZONING PURPOSES THE PROPERTY INCLUDED IN
THE TIMBERLINE-INTERNATIONAL ANNEXATION NO. 3 TO THE CITY OF FORT
COLLINS, COLORADO, AND APPROVING CORRESPONDING CHANGES TO
THE RESIDENTIAL NEIGHBORHOOD SIGN DISTRICT MAP

WHEREAS, Division 1.3 of the Land Use Code of the City of Fort Collins establishes the
Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code of the City of Fort Collins establishes
procedures and criteria for reviewing the zoning of land; and

WHEREAS, pursuant to Land Use Code Section 2.9.2, the City Planning and Zoning
Board, at its meeting on December 19, 2019, unanimously recommended zoning the property to
be known as the Timberline-International Annexation No. 3 (the “Property”) as more particularly
described below as Industrial (“I”), and determined that the proposed zoning is consistent with the
City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that the proposed zoning of the Property, as
described below is consistent with the City’s Comprehensive Plan; and

WHEREAS, to the extent applicable, the City Council has also analyzed the proposed
zoning against the applicable criteria set forth in Section 2.9.4(H)(3) of the Land Use Code and
finds the proposed zoning to be in compliance with all such criteria; and

WHEREAS, in accordance with the foregoing, the City Council has considered the zoning
of the Property as described below, finds it to be in the best interests of the City, and has determined
that the Property should be zoned as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.

Section 2. That the Zoning Map of the City of Fort Collins adopted pursuant to Section
1.3.2 of the Land Use Code of the City of Fort Collins is hereby changed and amended by including
in the Industrial (“I”) Zone District the Property more particularly described as:

That portion of Section 8, Township 7 North, Range 68 West of the 6th P.M., County of
Larimer, State of Colorado being more particularly described as follows:
Considering the East line of the Northwest Quarter of said Section 8 as bearing North 00°00'45" East and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of the Northwest Quarter of said Section 8; thence along the East line of said Northwest Quarter of said Section 8 North 00°00'45" East 56.00 feet, more or less, to a point on the Southerly line of EAST RIDGE ANNEXATION, City of Fort Collins, County of Larimer, State of Colorado and the Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1, City of Fort Collins, County of Larimer, State of Colorado; thence departing said East line of said Northwest Quarter of said Section 8 and along said Southerly line of EAST RIDGE ANNEXATION and along said Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 South 89°32'31" East 30.00 feet, more or less, to a point on the Easterly right-of-way line of Timberline Road; said point also being the Northeast corner of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2, City of Fort Collins, County of Larimer, State of Colorado; thence departing said Southerly line of EAST RIDGE ANNEXATION and departing said Northerly line of TIMBERLINE-INTERNATIONAL ANNEXATION NO. 1 and along said Easterly right-of-way line of Timberline Road and the Easterly lines of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 the following four (4) courses and distances: South 00°00'45" West 56.00 feet; South 00°00'45" East 236.46 feet; South 88°09'05" East 39.91 feet to the beginning of a non-tangent curve concave to the West having a central angle of 05°44'34" and a radius of 1170.50 feet, the long chord of which bears South 04°41'28" West a distance of 117.27 feet; thence Southerly along the arc of said curve 117.32 feet, more or less, the Southeast corner of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2; thence departing said Easterly right-of-way line of Timberline Road and departing said Easterly lines of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 and along the South line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 North 90°00’00” West 141.91 feet, more or less, to a point on the Westerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2; said point also being a point on the Southerly line of International Boulevard; said point also being a point on the Easterly line of Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING, County of Larimer, State of Colorado; thence along said Westerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 and along said Southerly line of International Boulevard and along the Easterly and Northerly lines of said Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING North 44°58’04” West 7.47 feet and again North 89°35’04” West 4.11 feet; thence departing said Southerly line of International Boulevard and departing said Northerly line of said Lot 3, SUMMIT VIEW INDUSTRIAL PARK P.D., THIRD FILING and continuing along said Westerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 North 00°24’56” East 100.00 feet, more or less, to a point on the Northerly line of International Boulevard; said point also being the Southwest corner of Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D., County of Larimer, State of Colorado; said point also being on the Southerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 and the TRUE POINT OF BEGINNING; thence along said Northerly line of International Boulevard and along the Southerly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and along the Northerly line of said TIMBERLINE-INTERNATIONAL
ANNEXATION NO. 2 South 89°35'04" East 40.28 feet, more or less, to the Southeast corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. said point a point on the Westerly right-of-way line for Timberline Road and a point on the Westerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2; thence departing said Northerly line of International Boulevard and departing said Southerly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and departing said Northerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 and along said Westerly right-of-way line for Timberline Road and along the Easterly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and along said Westerly line of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 North 00°00'45" West 250.02 feet and again North 00°00'45" East 62.35 feet, more or less, to the Southwest corner of said EAST RIDGE ANNEXATION and the Northeast corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D.; thence departing said Westerly right-of-way line for Timberline Road and departing said Easterly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and along the Northerly line of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. South 89°54'17" West 273.66 feet to the Northwest corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and along the Westerly lines of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. South 00°00'00" East 97.63 feet and again South 47°29'15" East 316.66 feet, more or less, to a point on the Northerly line of International Boulevard; said point also being the Northwest corner of said TIMBERLINE-INTERNATIONAL ANNEXATION NO. 2 and the Southwest corner of said Lot 1, INDUSTRIAL BUSINESS PARK INTERNATIONAL P.U.D. and the TRUE POINT OF BEGINNING.

Containing 60,373.8 square feet (1.39 acres), more or less.

Section 3. That the Sign District Map adopted pursuant to Section 3.8.7.1(E) of the Land Use Code of the City of Fort Collins is hereby changed and amended by showing that the Property described herein is included in the Residential Neighborhood Sign District.

Section 4. That the City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 4th day of February, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

______________________________
Mayor

______________________________
City Clerk
Passed and adopted on final reading on the 21st day of April, A.D. 2020.

_______________________________
Mayor

_______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Darin Atteberry, City Manager
Travis Storin, Interim Chief Finance Officer
Lawrence Pollack, Budget Director
John Duval, Legal

SUBJECT

EXECUTIVE SUMMARY
Prior to the Second Reading of this Ordinance, the 2020 Reappropriation requests were reviewed again in light of tightening revenue due to COVID-19. The Executive Lead Team evaluated each request to determine if they were either recovery-related or contractually binding. This additional review removed 12 requests and reduced the amount within another one, as detailed in the Background/Discussion section of this Agenda Item Summary. The items being removed from consideration are still important but did not pass the additional scrutiny required in this challenging economic time.

This Ordinance, unanimously adopted on First Reading on March 3, 2020, reappropriates monies in 2020 that were previously authorized by Council for expenditures in 2019 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2019 because:

- there was not sufficient time to complete bidding in 2019 and, therefore, there was no known vendor or binding contract as required to expend or encumber the monies,
- the project for which the dollars were originally appropriated by Council could not be completed during 2019 and reappropriation of those dollars is necessary for completion of the project in 2020, or
- the funds appropriated to be spent in 2019 to carry on some of the programs, services, and facility improvements were not spent or encumbered in 2019 for other reasons but continue to be needed for the same purposes in 2020.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2019 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows (updated prior to Second Reading):

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$199,008</td>
</tr>
<tr>
<td>Keep Fort Collins Great Fund</td>
<td>7,500</td>
</tr>
<tr>
<td>Transportation CEF Fund</td>
<td>1,750,000</td>
</tr>
<tr>
<td>Transportation Fund</td>
<td>50,000</td>
</tr>
<tr>
<td>Data and Communications Fund</td>
<td>214,125</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,220,633</strong></td>
</tr>
</tbody>
</table>

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.
The 2020 reappropriation requests that were removed prior to Second Reading by the Executive Lead Team are as follows, by fund:

**GENERAL FUND**
- City Clerk’s Office: Continued Population of Ordinance Repository - $10,000
- City Clerk’s Office: Boards and Commissions Software/Enhancements - $9,000
- Environmental Services: CAP Energy Policy - $40,000
- Amount reduced: $59,000

**KEEP FORT COLLINS GREAT FUND**
- Natural Areas: West Nile Virus - Efficacy Study - $20,000
- Economic Health Office: Business Retention & Engagement - reduced by $15,000
- Environmental Services: CAP Energy Policy - $15,000
- Environmental Services: Road to Zero Waste Plan Update - $13,597
- Amount reduced: $63,597

**CULTURAL SERVICES FUND**
- Cultural Services: Lincoln Center Sustainable Performance Hall Lighting - $171,498
- Amount reduced: $171,498

**TRANSPORTATION SERVICES FUND**
- Streets: Hickory SMP - $240,000
- Amount reduced: $240,000

**PARKING FUND**
- Parking: Replacement Signage for Downtown - Flexible Enforcement Hours - $30,000
- Amount reduced: $30,000

**DATA & COMMUNICATIONS FUND**
- Information Technology (IT): Electronic Record Search - $103,000
- Information Technology (IT): Event Log and Performance Monitoring Tool - $139,300
- Information Technology (IT): SharePoint Online - $20,290
- Amount reduced: $262,590

Total amount reduced prior to Second Reading $826,685

The 2020 reappropriation requests within this Ordinance are as follows, by fund:

**GENERAL FUND**

1. **Response to the Northern Integrated Supply Project (NISP) - $24,478**

   - **Purpose for funds**: The purpose of this offer is to fund legal and consulting services in support of the City's engagement with the NISP permitting process. Given the broad impact NISP will have on this community, and the complex layers of permits required, the City has prioritized engagement with NISP to ensure it maximizes its influence to protect City assets affected by NISP.

   - **Reason funds not expensed in 2019**: The City expected the permitting process of NISP to progress more quickly in 2019 than it actually did. Consistent progress and work have occurred on building collaborations and negotiating to improve outcomes for the City within the context of NISP. However, the final permitting phase is still not complete. Staff plans to use these funds to hire external expertise and legal counsel to support various aspects of our engagement with NISP in 2020. Most specifically in 2020, staff will be
focused on the Adaptive Management framework and governance, integration of technical bases, and engaging with our community and the permitting authority when the Record of Decision is released (anticipated early 2020).

**City Manager’s Office**

2. **Emergency Preparedness and Security - $50,000**

   **Purpose for funds:** The 2019 offer provided funding to maintain the current level of service provided by the Office of Emergency Preparedness and Security (EPS), which benefits residents, visitors and employees of Fort Collins by providing preservation of life, safety, property conservation and environmental protection in pre-disaster, disaster and post-disaster periods. EPS is also now responsible for coordinating and providing internal and external services in the area of security, addressing both internal and external security issues and threats.

   **Reason funds not expensed in 2019:** In 2019 there was a nationwide search for a Director of Emergency Preparedness and Security which was not completed until July 2019. During the time of the search there was a concentrated effort by the interim Director to limit the spending of funds so the new Director could set the strategic direction of the program. Once the Director was in place, emergency and security programing was initiated in the fourth quarter and has continued into 2020. This request is to reappropriate $50,000 to fund critical programming and training that is foundational to daily operations and aligns with the strategic vision being developed.

**Municipal Court**

3. **Court-Appointed Defense Counsel Funding Request - $18,750**

   **Purpose for funds:** In 2019, as required by law, Chief Judge Lane ordered that court-appointed defense counsel be assigned to represent certain defendants on traffic and non-traffic misdemeanor cases. Defense counsel was appointed on approximately 330 cases in 2019, several of which are still in progress. The fee paid by the City for such representation is billed at the rate of $75/hour up to a maximum of $1,675 per case if the case does not go to trial or $2,480 if the case goes to trial. We are requesting that a portion of the remaining funds from our 2019 budget be reappropriated into the same expense account for 2020.

   **Reason funds not expensed in 2019:** Due to the complexity of and circumstances related to these cases, the Court has 59 outstanding cases with defense counsel appointments that started in 2019 and have not yet reached final disposition. Therefore, the assigned defense counsel will not be submitting bills to the Court until the case(s) have been concluded, sometime in the next few weeks/months.

**Social Sustainability**

4. **Affordable Housing Programs (AHF) - $105,780**

   **Purpose for funds:** The Affordable Housing Funds are allocated annually through the Competitive Process to support critical affordable housing needs in the City of Fort Collins. Because of the cyclical nature of housing development, funding may be either unallocated or unexpended during a program year. Pursuant to Ordinance No. 028, 1994, any amounts appropriated by Council and not expended during the fiscal year should lapse into the Affordable Housing Reserve.

   **Reason funds not expensed in 2019:** $25,047 represents FY19 funding that was not allocated to an affordable housing project. $10,434 represents unspent program support costs and $70,299 represents funding that was previously committed to the Homebuyer Assistance Program but not yet contracted. The HBA funding cannot be contracted until individual homeowners make application to program for specific properties under contract. The balance of funds will be added to the Spring 2020 Competitive Process to be allocated to an eligible affordable housing project.
KEEP FORT COLLINS GREAT FUND

Economic Health

5. Business Retention and Engagement- $7,500 (decreased by $15,000)

Purpose for funds: These funds are in support of Innovation After Hours, which focuses on workforce development and highlights local companies’ best practices, as well as innovative ways of doing business. These monthly events feature timely topics around entrepreneurship, startup to scaleup success stories, and keynote speakers from industry, academia, and government sectors.

Reason funds not expensed in 2019: Funds were not expended in 2019 due to delay in timing of event.

TRANSPORATION CAPITAL EXPANSION FEE FUND

Engineering

6. Transportation Capital Expansion Fee Developer Reimbursements- $1,750,000

Purpose for funds: The purpose of this offer is to appropriate Transportation Capital Expansion Fee (TCEF) funds for the purpose of reimbursing development for the construction of eligible transportation related improvements. The TCEF Program will frequently partner with development to construct arterial and collector level roadways adjacent to the development’s frontage. After eligible improvements are accepted by the City, the TCEF program will reimburse the developer for these improvements. The TCEF Program anticipates several large reimbursements for 2020, including improvements associated with the following developments: The Crowne at Old Town North, Northfield, Waterfield Fourth, Mountains Edge, Taft Place, and the Standard. This offer will ensure the TCEF Program’s ability to reimburse development for eligible improvements constructed in 2020.

Reason funds not expensed in 2019: The TCEF Program reimburses development for eligible improvements after they are constructed and accepted by the City. Several of the above-mentioned developments did not meet their anticipated 2019 completion dates and are now expecting to be completed in 2020. The TCEF Program is still responsible to reimburse these developments for eligible improvements. With these projects being delayed, TCEF funds budgeted for 2019 need to be re-appropriated to 2020 to accommodate the anticipated reimbursements.

TRANSPORTATION SERVICES FUND

Traffic

7. Neighborhood Traffic Mitigation Program - $50,000

Purpose for funds: Traffic in neighborhoods can affect the quality of life for residents, bicycles, pedestrians as well as drivers. The Neighborhood Traffic Mitigation Program is a collaborative effort between neighborhoods and City staff to implement traffic calming options. Neighborhoods wanting to install speed bumps are required to complete a petition before construction can take place. Traffic is requesting $50,000 to be re-appropriated from the 2019 budget to install speed bumps in several neighborhood.

Reason funds not expensed in 2019: Prior to speed bumps being installed, neighborhood consensus with super majority support is required. In the fall of 2019, several neighborhoods completed petitions, however there was not enough time to schedule and install the bumps before the asphalt plants closed for the season. The streets are Stanford Road, Wabash Street, Caribou Drive and Creekwood Drive. That construction is now scheduled for 2020.
DATA & COMMUNICATIONS FUND

Information Technology (IT)

8. Electronic Plan Review - Phase Two - $35,510

Purpose for funds: The purpose of these funds is to continue the development and implementation of phase two of the Electronic Plan Review system for the Community Development and Neighborhood Services (CDNS) department as well as Utilities and City Partners including PFA. The funds will be utilized to support consulting services with True Point Solutions to assist IT and CDNS with system improvements and increased functionality to the existing Accela system, which includes configuration, scripting, report design and development, testing, and support. These improvements are intended to help better track and manage improved building permit processes. This phase of the project is anticipated to be completed by Q1 2020.

Reason funds not expensed in 2019: Phase two of this project was approved by City Council on October 1, 2019, in Ordinance No. 112, 2019. Per the Agenda Item Summary and Ordinance, this project was slated to go through Q1 of 2020. Therefore, it was anticipated that these funds would not be fully expensed by the end of 2019. The City has already encumbered the majority of the funding authorized by Ordinance No. 112 with True Point Solutions. The funds being requested are for any unanticipated ancillary support costs and/or work order items that may occur through scope changes as the project progresses.

9. IT Network Switch Replacements- $178,615

Purpose for funds: The funds for this reappropriation request will fund the procurement and professional services needed to replace two core switches along with two other switches that are reaching their end-of-life cycle in July 2020. This infrastructure equipment is critical in nature in that it connects to the eight individual fiber rings that supports the City's entire network system. The professional services needed for this replacement includes the discovery, configuration, implementation, and testing of the cores as this is projected to be a three-month replacement project.

Reason funds not expensed in 2019: In mid-2019, Information Technology staff began the evaluation of replacing the core switches one year before lifecycle expiration. This included multiple discussions with professional services and presentations on potential solutions to replace the switches. During this same timeframe, a transition of City Network responsibilities from IT to the Connexion team was being identified and determined. The timing of the final transition did not leave adequate time for Connexion to evaluate IT’s solution proposal to assess if the proposal would fit within Connexion's network architecture plans. In light of the timing of the lifecycle deadline, critical nature of these switches, and other competing priorities, professional services funding needs to be carried into 2020 to complete the replacement of these switches.

CITY FINANCIAL IMPACTS

This Ordinance increases 2020 appropriations by $2,220,663. A total of $199,008 is requested for reappropriation in the General Fund, $7,500 from the Keep Fort Collins Great Fund, and $2,014,125 is requested from various other City funds. Of those other funds, the majority is $1,750,000 in the Transportation Capital Expansion Fee Fund. Reappropriation requests represent amounts budgeted in 2019 that were not expended or encumbered at year-end. The appropriations are from 2019 prior year reserves.

ATTACHMENTS

1. First Reading Agenda Item Summary, March 3, 2020 (w/o attachments) (PDF)
AGENDA ITEM SUMMARY
City Council
March 3, 2020

STAFF

Darin Atteberry, City Manager
Travis Storin, Accounting Director
Lawrence Pollack, Budget Director
John Duval, Legal

SUBJECT

First Reading of Ordinance No. 042, 2020, Reappropriating Funds Previously Appropriated in 2019 But Not Expended or Not Encumbered in 2019.

EXECUTIVE SUMMARY

The purpose of this item is to reappropriate monies in 2020 that were previously authorized by City Council for expenditures in 2019 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2019 because:

- there was not sufficient time to complete bidding in 2019 and, therefore, there was no known vendor or binding contract as required to expend or encumber the monies,

- the project for which the dollars were originally appropriated by Council could not be completed during 2019 and reappropriation of those dollars is necessary for completion of the project in 2020, or

- the funds appropriated to be spent in 2019 to carry on some of the programs, services, and facility improvements were not spent or encumbered in 2019 for other reasons but continue to be needed for the same purposes in 2020.

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2019 and reflect no change in Council policies.

Monies reappropriated for each City fund by this Ordinance are as follows:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$258,008</td>
</tr>
<tr>
<td>Keep Fort Collins Great Fund</td>
<td>71,097</td>
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<tr>
<td>Cultural Services Fund</td>
<td>171,498</td>
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<tr>
<td>Transportation CEF Fund</td>
<td>1,750,000</td>
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<td>Transportation Fund</td>
<td>290,000</td>
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<tr>
<td>Parking Fund</td>
<td>30,000</td>
</tr>
<tr>
<td>Data and Communications Fund</td>
<td>476,715</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$3,047,318</strong></td>
</tr>
</tbody>
</table>

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STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Executive Team has reviewed the reappropriation requests to ensure alignment with organization priorities and the Budget staff reviewed the requests to verify that all met qualification requirements. The 2020 reappropriation requests are as follows, by fund:

These 2020 reappropriation requests were also reviewed with the Council Finance Committee on Monday, February 24, 2020.

GENERAL FUND

Natural Areas

1. Response to the Northern Integrated Supply Project (NISP) - $24,478

Purpose for funds: The purpose of this offer is to fund legal and consulting services in support of the City's engagement with the NISP permitting process. Given the broad impact NISP will have on this community, and the complex layers of permits required, the City has prioritized engagement with NISP to ensure it maximizes its influence to protect City assets affected by NISP.

Reason funds not expensed in 2019: The City expected the permitting process of NISP to progress more quickly in 2019 than it actually did. Consistent progress and work have occurred on building collaborations and negotiating to improve outcomes for the City within the context of NISP. However, the final permitting phase is still not complete. Staff plans to use these funds to hire external expertise and legal counsel to support various aspects of our engagement with NISP in 2020. Most specifically in 2020, staff will be focused on the Adaptive Management framework and governance, integration of technical bases, and engaging with our community and the permitting authority when the Record of Decision is released (anticipated early 2020).

City Clerk's Office

2. Continued Population of Ordinance Repository - $10,000

Purpose for funds: OrdBank is a service available through our codifier, Municipal Code Corporation (MCC), that allows the City to store, search, and link original ordinances from a Code section's history note, Supplement History Table, and Code Comparative Table. It allows browsing of a permanent ordinance repository and affords the City the opportunity to include historical ordinances in the repository. This provides a "one stop shop" experience beneficial to public and internal customers and is particularly helpful for research and development of future Code amendments. Appropriation of these funds will add six more years (2006 through 2011) of ordinances amending City Code, Land Use Code and Traffic Code language to be added to the repository.

Reason funds not expensed in 2019: The City has been adding to the MCC ordinance repository since 2016 as resources allow. This is typically done near the end of the year when codification (Code amendment) is winding down and remaining funds are identified. Due to staffing shortages in the 4th quarter of 2019, this project was delayed.

3. Boards and Commissions Software/Enhancements - $9,000

Purpose for funds: These funds, originally established as ongoing funding for boards and commissions tracking software, will be used to make enhancements to the chosen product called Engage. Engage is a
custom-built data management platform used to track all City volunteers, and as such, does not immediately provide all of the functionality specific to managing boards and commissions membership. Fortunately, additional customization is readily available through Square Technologies, the Engage provider. Desired customization includes additional data fields, enhanced reporting capabilities, and ability to integrate with other tools (such as the City event calendar).

Reason funds not expensed in 2019: The Boards and Commissions Coordinator left her position in August, which remained vacant until December 30. Although other staff members met with the Engage developer about desired enhancements, there was not adequate time or knowledge to adequately scope needs.

City Manager’s Office

4. Emergency Preparedness and Security - $50,000

Purpose for funds: The 2019 offer provided funding to maintain the current level of service provided by the Office of Emergency Preparedness and Security (EPS), which benefits residents, visitors and employees of Fort Collins by providing preservation of life, safety, property conservation and environmental protection in pre-disaster, disaster and post-disaster periods. EPS is also now responsible for coordinating and providing internal and external services in the area security, addressing both internal and external security issues and threats.

Reason funds not expensed in 2019: In 2019 there was a nationwide search for a Director of Emergency Preparedness and Security which was not completed until July 2019. During the time of the search there was a concentrated effort by the interim Director to limit the spending of funds so the new Director could set the strategic direction of the program. Once the Director was in place, emergency and security programing was initiated in the fourth quarter and has continued into 2020. This request is to reappropriate $50,000 to fund critical programming and training that is foundational to daily operations and aligns with the strategic vision being developed.

Municipal Court

5. Court-Appointed Defense Counsel Funding Request - $18,750

Purpose for funds: In 2019, as required by law, Chief Judge Lane ordered that court-appointed defense counsel be assigned to represent certain defendants on traffic and non-traffic misdemeanor cases. Defense counsel was appointed on approximately 330 cases in 2019, several of which are still in progress. The fee paid by the City for such representation is billed at the rate of $75/hour up to a maximum of $1,675 per case if the case does not go to trial or $2,480 if the case goes to trial. We are requesting that a portion of the remaining funds from our 2019 budget be reappropriated into the same expense account for 2020.

Reason funds not expensed in 2019: Due to the complexity of and circumstances related to these cases, the Court has 59 outstanding cases with defense counsel appointments that started in 2019 and have not yet reached final disposition. Therefore, the assigned defense counsel will not be submitting bills to the Court until the case(s) have been concluded, sometime in the next few weeks/months.

Social Sustainability

6. Affordable Housing Programs (AHF) - $105,780

Purpose for funds: The Affordable Housing Funds are allocated annually through the Competitive Process to support critical affordable housing needs in the City of Fort Collins. Because of the cyclical nature of housing development, funding may be either unallocated or unexpended during a program year. Pursuant to Ordinance No. 28, 1994, any amounts appropriated by Council and not expended during the fiscal year should lapse into the Affordable Housing Reserve.
Reason funds not expensed in 2019: $25,047 represents FY19 funding that was not allocated to an affordable housing project. $10,434 represents unspent program support costs and $70,299 represents funding that was previously committed to the Homebuyer Assistance Program but not yet contracted. The HBA funding cannot be contracted until individual homeowners make application to program for specific properties under contract. The balance of funds will be added to the Spring 2020 Competitive Process to be allocated to an eligible affordable housing project.

Environmental Services

7. CAP Energy Policy - $40,000 (plus an additional $15,000 in Keep Fort Collins Great Fund (KFCG) totals $55,000 for request)

Purpose for funds: These resources support the development and deployment of Our Climate Future, a combined update to the Climate Action Plan, Energy Policy and Road to Zero Waste updates, which include an equity-centered planning process and outcomes. The funding will support consultants for the technical aspects of the planning process ($40,000 General Fund) as well as additional community partners and plan ambassadors to support community engagement to be coordinated by the City of Fort Collins Communications & Public Involvement Office ($15,000 KFCG).

Reason funds not expensed in 2019: Due to the equity-centered planning process, an additional phase was added to the planning process (entitled “Understanding Community Priorities”). This meant the 2019 focus was almost entirely on community engagement instead of securing the consultants needed to develop and analyze the plan’s strategies. There is an RFP out for the consultant team as well as additional recruitment are all underway. All funds are anticipated to be expended in 2020.

KEEP FORT COLLINS GREAT FUND

Natural Areas

8. West Nile Virus - Efficacy Study- $20,000

Purpose for funds: The purpose of this offer is to improve understanding of the efficacy of adult mosquito control efforts in Fort Collins. The West Nile Virus (WNV) Technical Advisory Committee has identified a need for field studies to show the efficacy of adult mosquito treatments. Although the WNV program operates a robust trapping network, the timing of data collection contributes to variability in pre-treatment and post-treatment efficacy analysis. These funds would decrease the variability and improve understanding of the causal relation between treatment and vector index reduction.

Reason funds not expensed in 2019: The Centers for Disease Control initiated preliminary pro-bono work on developing a treatment efficacy study in 2019. However, due to the impacts of a rain event on the single 2019 adult mosquito treatment event, the CDC could not generate sufficient data. If the 2020 CDC budget allows, CDC and the City will continue to work together to develop a study. If that is not possible, these funds will fund an efficacy study performed by a consultant.

Economic Health

9. Business Retention and Engagement- $22,500

Purpose for funds: These funds are intended for the Business Engagement Action Plan team development of Customer Service Training Tools and Innovation After Hours. Piloting a new Innovation After Hours focusing on workforce and highlighting local companies’ best practices, as well as innovative ways of doing business.

Reason funds not expensed in 2019: In 2019, City Manager’s Office requested that the Customer Service initiative be reviewed at the City-organizational level instead of only at the business stakeholder level. Funds
were not expended due to timing of onboarding a new project manager. This approach allows for a holistic approach to customer service.

Environmental Services

10. CAP Energy Policy - $15,000 (plus an additional $40,000 in General Fund totals $55,000 for request)

Please see description in #7 under General Fund.

11. Road to Zero Waste Plan Update- $13,597

Purpose for funds: These resources allow the Waste Reduction and Recycling program area to update the Road to Zero Waste (RtZW) plan in 2019/2020 as part of the Our Climate Future (OCF) planning process. OCF is a combined update to the Climate Action Plan, Energy Policy and Road to Zero Waste updates, which include an equity-centered planning process and outcomes. The Road to Zero Waste plan was originally adopted by City Council in 2013 and has been a foundational, strategic document for the Environmental Services Department, the organization, and the community. An evolution of the road map, including a review of interim Zero Waste goals, is needed to adapt priorities and strategies to changes that have occurred from the local level all the way to the global level.

Reason funds not expensed in 2019: Due to the equity-centered planning process, an additional phase was added to the planning process (entitled "Understanding Community Priorities"). This meant the 2019 focus was almost entirely on community engagement instead of securing the consultants needed to develop and analyze the plans' strategies. There is an RFP out for the consultant team as well as additional recruitment are all underway. All funds are anticipated to be expended in 2020.

CULTURAL SERVICES FUND

Cultural Services

12. Lincoln Center Sustainable Performance Hall Lighting- $171,498

Purpose for funds: This offer will purchase energy-efficient LED lighting for the Lincoln Center Performance Hall. The new fixtures will reduce energy consumption by 75,000 kWh each year, reduce utility costs by $12,000 per year, reduce the labor to replace lamps, and reduce electric greenhouse gas emissions by at least 66 tons each year. This offer replaces the Performance Hall's 47 house lights with LED lamps and data distribution and dimming for those units; and integrates house lights with the emergency lighting system, dramatically improving safety during any evacuation event. The existing system is inadequate and may not meet current code. Many existing bulbs in the performance hall are failing and need to be replaced on a regular basis, making this the ideal time to replace this existing system with a more cost-effective and environmentally sustainable LED lighting system.

Reason funds not expensed in 2019: Due to turnover in technical staff, Cultural Services did not have the expertise to complete the project in a timely and cost-effective manner. This was communicated to executive management in June, resulting in the decision to postpone the project until 2020.

TRANSPORATION CAPITAL EXPANSION FEE FUND

Engineering

13. Transportation Capital Expansion Fee Developer Reimbursements- $1,750,000

Purpose for funds: The purpose of this offer is to appropriate Transportation Capital Expansion Fee (TCEF) funds for the purpose of reimbursing development for the construction of eligible transportation related improvements. The TCEF Program will frequently partner with development to construct arterial and
Agenda Item 6

collector level roadways adjacent to the development's frontage. After eligible improvements are accepted by the City, the TCEF program will reimburse the developer for these improvements. The TCEF Program anticipates several large reimbursements for 2020, including improvements associated with the following developments: The Crowne at Old Town North, Northfield, Waterfield Fourth, Mountains Edge, Taft Place, and the Standard. This offer will ensure the TCEF Program’s ability to reimburse development for eligible improvements constructed in 2020.

Reason funds not expensed in 2019: The TCEF Program reimburses development for eligible improvements after they are constructed and accepted by the City. Several of the above-mentioned developments did not meet their anticipated 2019 completion dates and are now expecting to be completed in 2020. The TCEF Program is still responsible to reimburse these developments for eligible improvements. With these projects being delayed, TCEF funds budgeted for 2019 need to be re-appropriated to 2020 to accommodate the anticipated reimbursements.

TRANSPORTATION SERVICES FUND

Streets

14. Hickory SMP- $240,000

Purpose for funds: Streets is requesting $240,000 to be re-appropriated from the 2019 SMP budget to cover the costs of the Hickory Phase 2 project which was scheduled to be completed in 2019. Phase 2 includes overlay maintenance from the railroad tracks East to College Avenue.

Reason funds not expensed in 2019: Hickory Street Phase 2 was postponed because Utilities needs to complete work prior to the street maintenance work being completed. The utilities work will be completed in 2020, and the Streets department will be able to complete the project in 2020.

Traffic

15. Neighborhood Traffic Mitigation Program - $50,000

Purpose for funds: Traffic in neighborhoods can affect the quality of life for residents, bicycles, pedestrians as well as drivers. The Neighborhood Traffic Mitigation Program is a collaborative effort between neighborhoods and City staff to implement traffic calming options. Neighborhoods wanting to install speed bumps are required to complete a petition before construction can take place. Traffic is requesting $50,000 to be re-appropriated from the 2019 budget to install speed bumps in several neighborhood.

Reason funds not expensed in 2019: Prior to speed bumps being installed, neighborhood consensus with super majority support is required. In the fall of 2019, several neighborhoods completed petitions, however there was not enough time to schedule and install the bumps before the asphalt plants closed for the season. The streets are Stanford Road, Wabash Street, Caribou Drive and Creekwood Drive. That construction is now scheduled for 2020.

PARKING FUND

Parking

16. Replacement Signage for Downtown - Flexible Parking Enforcement Hours - $30,000

Purpose for funds: Signage in the downtown area regarding timed public parking spaces needs updating to be consistent with messaging and to improve aesthetics to help improve the downtown experience. Prior to updating existing signage, Parking Services wanted to ensure that proper verbiage and messaging was aligned with long-term needs. Existing signage indicates hours of regulation, and in some signs/areas, days of regulation. By updating the downtown signage, it will provide the flexibility of enforcement to meet community needs, which is also supported by the Parking Advisory Board and the Downtown Business
Association. Based on newer parking signs adjacent to the Firehouse Alley Parking Structure, on Chestnut Street, a similar design would support downtown needs and provide the flexibility to alter/update as necessary.

Reason funds not expended in 2019: The reason the approved budget for the downtown signage was not spent in 2019 was because Parking Services wanted to ensure that the updated sign design in the downtown area would meet community needs for the longer-term. Inground sensors were installed in the downtown parking stalls to capture specific data sets, including occupancy, duration of stay, and parking space turnover. Parking Services had intended to use the parking sensor data collected over 2019 to inform a decision of the appropriate downtown signage. In lieu of data collection, Parking Services has begun conversations with community partners, the Parking Advisory Board, the Downtown Business Association, and the Downtown Development Authority. These funds will be spent in 2020.

DATA & COMMUNICATIONS FUND

Information Technology (IT)

17. Electronic Plan Review - Phase Two - $35,510

Purpose for funds: The purpose of these funds is to continue the development and implementation of phase two of the Electronic Plan Review system for the Community Development and Neighborhood Services (CDNS) department as well as Utilities and City Partners including PFA. The funds will be utilized to support consulting services with True Point Solutions to assist IT and CDNS with system improvements and increased functionality to the existing Accela system, which includes configuration, scripting, report design and development, testing, and support. These improvements are intended to help better track and manage improved building permit processes. This phase of the project is anticipated to be completed by Q1 2020.

Reason funds not expended in 2019: Phase two of this project was approved by City Council on October 1, 2019, in Ordinance No. 112, 2019. Per the Agenda Item Summary and Ordinance, this project was slated to go through Q1 of 2020. Therefore, it was anticipated that these funds would not be fully expended by the end of 2019. The City has already encumbered the majority of the funding authorized by Ordinance No. 112 with True Point Solutions. The funds being requested are for any unanticipated ancillary support costs and/or work order items that may occur through scope changes as the project progresses.

18. Electronic Record Search - $103,000

Purpose for funds: This request is to fund the purchase and implementation of an Electronic Record Search solution that will enable organizations across the City to collaborate effectively and efficiently when Open Records and other searches are requested. Open records requests are received throughout the City organization and at times require exhaustive searches of the records of many different departments in a strictly limited period of time. The primary departments that take the lead in coordinating and assisting with records searches for requests that touch on multiple departments are the City Clerk's Office, City Attorney's Office and Information Technology. It is anticipated that this system will assist departments throughout the City in complying with the statutory mandate to provide public records upon request by members of the public. This item was a priority at the time it was initially funded and continues to be critical to addressing an existing gap in the City's systems for identifying and producing requested records.

Reason funds not expended in 2019: The original idea was to bring in a completely new tool to meet identified electronic search functionality goals and that run concurrently with the Document Management replacement system. Initially, a tool set within Office 365 was identified as a potential solution, however after further analysis, the solution would have required additional resources and process rewrite beyond the scope of the original intent. Shortly after this discovery, the project stalled due to IT bandwidth capacity issues for supporting higher priority, large scale projects. Recently in 2019, in light of staffing changes and further dialogue, the primary departments involved in this project intentionally delayed pursuing a procurement until early 2020 so that the future Chief Privacy Officer would have an opportunity to provide additional input in identifying the proper tool needed based on the Officer's recommended records management processes.
19. Event Log and Performance Monitoring Tool- $139,300

Purpose for funds: This request would fund the procurement of an Event Log and Performance Monitoring Tool to quickly evaluate the City's IT systems to pinpoint operational inefficiencies and help detect cyber threats that can inhibit day-to-day City operations. The tool will also enhance the City's ability to monitor and provide a proactive response to infrastructure operations and incident resolution, quickly isolate and resolve issues, and avoid any potential downtime. Funds in this request will also support the need for professional services to assist in the implementation of this solution.

Reason funds not expensed in 2019: This project was slated to begin in the 3rd quarter of 2019. However, the Data Management team's resources were consumed with higher level, priority projects supporting Connexion and Light & Power, and there wasn't available bandwidth to begin procuring this tool in 2019. These delays were reported in the quarterly Safe Strategy Map review sessions. The team has had opportunity for continued analysis of potential solutions and is targeting Q2 of 2020 to procure this tool with full implementation by Fall of 2020.

20. IT Network Switch Replacements- $178,615

Purpose for funds: The funds for this reappropriation request will fund the procurement and professional services needed to replace two core switches along with two other switches that are reaching their end-of-life cycle in July 2020. This infrastructure equipment is critical in nature in that it connects to the eight individual fiber rings that supports the City's entire network system. The professional services needed for this replacement includes the discovery, configuration, implementation, and testing of the cores as this is projected to be a three-month replacement project.

Reason funds not expensed in 2019: In mid-2019, Information Technology staff began the evaluation of replacing the core switches one year before lifecycle expiration. This included multiple discussions with professional services and presentations on potential solutions to replace the switches. During this same timeframe, a transition of City Network responsibilities from IT to the Connexion team was being identified and determined. The timing of the final transition did not leave adequate time for Connexion to evaluate IT's solution proposal to assess if the proposal would fit within Connexion's network architecture plans. In light of the timing of the lifecycle deadline, critical nature of these switches, and other competing priorities, professional services funding needs to be carried into 2020 to complete the replacement of these switches.

21. SharePoint Online - $20,290

Purpose for funds: Funding this offer will enable the continuation of the planning, migration and implementation of the SharePoint Online collaboration software included with the Office 365 plan which includes Outlook, Word, Excel, PowerPoint, Publisher, OneNote, OneDrive, MS Teams, and SharePoint Online. Several of the Microsoft products utilize the SharePoint Online platform for collaboration, task/project management and storage, and in some cases, cannot function without SharePoint. This tool will enhance and standardize processes to increase efficiency and reduce costs as expected by City Leaders, staff, and residents.

Reason funds not expensed in 2019: Through 2019, the internal team responsible for this project engaged in the planning foundations, contracted with a vendor, analyzed the infrastructure to help develop standards and templates, priority sites for migration were identified, and the team deployed MS Teams with accompanying training currently ongoing into 2020. However, the project experienced intermittent delays over the course of the year due to higher priority project commitments by team members. These delays were reported in the quarterly HPG Strategy Map review sessions. Despite these delays, particular elements and milestones of this project were accomplished. At present, a test migration is scheduled for mid-February and the project team is targeting Q2 of 2020 for full deployment of the SharePoint implementation.

CITY FINANCIAL IMPACTS
This Ordinance increases 2020 appropriations by $3,047,318. A total of $258,008 is requested for reappropriation in the General Fund, $71,097 from the Keep Fort Collins Great Fund, and $2,718,213 is requested from various other City funds. Of those other funds, the majority is $1,750,000 in the Transportation Capital Expansion Fee Fund. Reappropriation requests represent amounts budgeted in 2019 that were not expended or encumbered at year-end. The appropriations are from 2019 prior year reserves.
ORDINANCE NO. 042, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REAPPROPRIATING FUNDS PREVIOUSLY APPROPRIATED
IN 2019 BUT NOT EXPENDED OR NOT ENCUMBERED IN 2019

WHEREAS, City Council authorized expenditures in 2019 for various purposes in the General Fund, Keep Fort Collins Great Fund, Cultural Services & Facilities Fund, Transportation Capital Expansion Fee Fund, Transportation Services Fund, Parking Fund, and Data and Communications Fund, portions of which were not spent or encumbered in 2019; and

WHEREAS, Article V, Section 11 of the City Charter requires that all appropriations unexpended or unencumbered at the end of the fiscal year lapse to the applicable general or special fund, except that appropriations for capital projects and federal or state grants do not lapse until the completion of the capital project or until the expiration of the federal or state grant; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, City staff have determined that the amounts to be appropriated as described herein are available and currently unappropriated; and

WHEREAS, it is in the best interests of the City and its residents to re-appropriate funds for the expenditures below, in furtherance of these expenditures and their respective public purposes authorized in 2019 for which such appropriated funds were not expended or not encumbered during 2019.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated for expenditure from prior year reserves in the General Fund the sum of TWO HUNDRED FIFTY-EIGHT THOUSAND EIGHT DOLLARS ($258,008) for the following purposes:

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</tr>
<tr>
<td>Municipal Court: Court-Appointed Defense Counsel Funding Request</td>
<td>18,750</td>
</tr>
<tr>
<td>Affordable Housing Programs (AHF)</td>
<td>105,780</td>
</tr>
</tbody>
</table>
Section 3. That there is hereby appropriated for expenditure from prior year reserves in the Keep Fort Collins Great Fund the sum of SEVENTY ONE THOUSAND NINETY SEVEN DOLLARS ($71,097) SEVEN THOUSAND FIVE HUNDRED DOLLARS ($7,500) for the following purposes:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Nile Virus - Efficacy Study</td>
<td>$20,000</td>
</tr>
<tr>
<td>Business Retention and Engagement</td>
<td>$7,500</td>
</tr>
<tr>
<td>CAP Energy Policy</td>
<td>$15,000</td>
</tr>
<tr>
<td>Road to Zero Waste Plan Update</td>
<td>$13,597</td>
</tr>
</tbody>
</table>

Total Keep Fort Collins Great Fund: $71,097

$7,500

Section 4. That there is hereby appropriated for expenditure from prior year reserves in the Cultural Services & Facilities Fund the sum of ONE HUNDRED SEVENTY ONE THOUSAND FOUR HUNDRED NINETY EIGHT DOLLARS ($171,498) for Lincoln Center Sustainable Performance Hall Lighting.

Section 5. That there is hereby appropriated for expenditure from prior year reserves in the Transportation Capital Expansion Fee Fund the sum of ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS ($1,750,000) to be used for Transportation Capital Expansion Fee developer reimbursements.

Section 6. That there is hereby appropriated for expenditure from prior year reserves in the Transportation Services Fund the sum of TWO HUNDRED NINETY THOUSAND DOLLARS ($290,000) FIFTY THOUSAND DOLLARS ($50,000) for the following purposes:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hickory SMP</td>
<td>$240,000</td>
</tr>
<tr>
<td>Neighborhood Traffic Mitigation Program</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

Total Transportation Services Fund: $290,000

$50,000

Section 7. That there is hereby appropriated for expenditure from prior year reserves in the Parking Fund the sum of THIRTY THOUSAND DOLLARS ($30,000) for replacement of signage to allow for flexible enforcement of Downtown parking hours.

Section 8. That there is hereby appropriated for expenditure from prior year reserves in the Data and Communications Fund the sum of FOUR HUNDRED SEVENTY-SIX THOUSAND SEVEN HUNDRED FIFTEEN DOLLARS ($476,715) TWO HUNDRED FOURTEEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS ($214,125) for the following purposes:
<table>
<thead>
<tr>
<th>Project</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electronic Plan Review - Phase Two</td>
<td>$35,510</td>
</tr>
<tr>
<td>Electronic Record Search</td>
<td>$403,000</td>
</tr>
<tr>
<td>Event Log &amp; Performance Monitoring Tool</td>
<td>$39,300</td>
</tr>
<tr>
<td>IT Network Switch Replacements</td>
<td>$178,615</td>
</tr>
<tr>
<td>SharePoint Online</td>
<td>$20,290</td>
</tr>
<tr>
<td><strong>Total Data and Communications Fund</strong></td>
<td><strong>$476,715</strong></td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$214,125</strong></td>
</tr>
</tbody>
</table>

Introduced, considered favorably on first reading, and ordered published this 3rd day of March, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

_______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF

Matt Day, Senior Landscape Architect
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 045, 2020, Appropriating Unanticipated Philanthropic Revenue from New Belgium Brewing in the General Fund and Transferring it to the Capital Projects Fund for the Poudre River Reach 4 Feasibility Study.

EXECUTIVE SUMMARY

This item is coming to Council on Second Reading because it is necessary to move the project forward.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $10,000 of philanthropic revenue in the General Fund for transfer to the Capital Projects Fund for the Reach 4 Feasibility Study by Park Planning & Development. The intent of the charitable gift, secured and facilitated by City Give, is designated by the donor, New Belgium Brewing, in support of the Reach 4 Feasibility Study.

The Reach 4 efforts focus on the feasibility of completing the improvements as called out in the Poudre River Downtown Master Plan. The Plan includes a conceptual site plan and cost estimate for Reach 4, located between the Whitewater Park and Linden Street. Reach 4 is particularly sensitive, as it is a former Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site. The study will help determine if/how the concept site plan and cost estimate provided in the Master Plan should be adjusted, based on a more robust analysis of the site conditions and preferred outcomes. These efforts will help inform a design and construction offer in the upcoming BFO process.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 045, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

April 7, 2020

STAFF
Matt Day, Senior Landscape Architect
Ingrid Decker, Legal

SUBJECT

EXECUTIVE SUMMARY
The purpose of this item is to appropriate $10,000 in philanthropic revenue in the General Fund for transfer to the Capital Projects Fund for the Reach 4 Feasibility Study by Park Planning & Development. The intent of the charitable gift, secured and facilitated by City Give, is designated by the donor, New Belgium Brewing, in support of the Reach 4 Feasibility Study.

The Reach 4 efforts focus on the feasibility of completing the improvements as called out in the Poudre River Downtown Master Plan. The Plan includes a conceptual site plan and cost estimate for Reach 4, located between the Whitewater Park and Linden Street. Reach 4 is particularly sensitive, as it is a former Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site. The study will help determine if/how the concept site plan and cost estimate provided in the Master Plan should be adjusted, based on a more robust analysis of the site conditions and preferred outcomes. These efforts will help inform a design and construction offer in the upcoming BFO process.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
The Poudre River Master Plan identifies six (6) “reaches,” each with a unique set of recommendations to improve in-river and bankside recreation, habitat connectivity, restoration and rehabilitation, bank protection, flood mitigation, water quality, public safety and access, and transportation. Reach 4 is located between the BNSF railroad bridge downstream of College Avenue, and Linden Street.

Reach 4 Feasibility Study will enable the City of Fort Collins to fully identify the features desired in the reach, evaluate the feasibility and permitting requirements associated with the improvements based on the sensitive nature of the site as a former Superfund site, and identify an accurate cost for the improvements.

The Study will also examine and evaluate potential features including: River take-out and access points, an improved walk along the south bank, recreation elements, Poudre Trail re-alignment along the north side of the River, trail underpasses, in-stream recreational features, and grade separated trail crossings at Linden Street and the BNSF railroad bridge.

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated
in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the General Fund during this fiscal year. He also recommends the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

**CITY FINANCIAL IMPACTS**

This Ordinance appropriates $10,000 of unanticipated philanthropic revenue to supplement the projected budget for the Reach 4 feasibility.

Reach 4 Feasibility Study Funding History:
- $100K in 2019 from the 2019-2020 Budget Offer #32.7
- $25K was appropriated in the 2019 Annual Adjustment from charitable gifting
- $10K being appropriated in this Ordinance.

The revenue is being appropriated into the General Fund for transfer to the Capital Projects Fund to support the Reach 4 Feasibility Study by Park Planning & Development.

The funds have been received and accepted per the City Give Financial Governance Policy provisions of the Financial Management Policies.
ORDINANCE NO. 045, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE FROM NEW BELGIUM BREWING IN THE GENERAL FUND AND TRANSFERRING IT TO THE CAPITAL PROJECTS FUND FOR THE POUDRE RIVER REACH 4 FEASIBILITY STUDY

WHEREAS, the City’s Poudre River Master Plan identifies six “reaches,” or continuous stretches of the river, each with a unique set of characteristics and recommendations for improvements; and

WHEREAS, New Belgium Brewing has donated to the City $10,000 to fund the “Reach 4 Feasibility Study,” which will enable the City to identify the features desired in that stretch of the Poudre River between the BNSF railroad bridge east of North College Avenue and the Linden Street bridge (the “Study”); and

WHEREAS, the Study will also evaluate the feasibility, permitting requirements, and potential costs for the improvements; and

WHEREAS, this Ordinance appropriates these unanticipated revenues from the General Fund and transfers them to the Capital Projects Fund to supplement $125,000 in funding previously appropriated for the Study; and

WHEREAS, this appropriation benefits public health, safety and welfare of the residents of Fort Collins and serves the public purpose of furthering public access and improvements to an important segment of the Poudre River near downtown; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project account to another fund or capital project account, provided that the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and determined that the purpose for which the transferred funds are to be expended remains unchanged.
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of TEN THOUSAND DOLLARS ($10,000) for transfer to the Capital Projects Fund and appropriated therein for the Reach 4 Feasibility Study by Park Planning & Development.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

ATTEST:

Mayor

City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

ATTEST:

Mayor

City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF

Greg Oakes, Landscape Architect
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 046, 2020, Appropriating Unanticipated Philanthropic Revenue from Veterans Plaza of Northern Colorado in the General Fund and Transferring it to the Capital Projects Fund for the Veterans Plaza Improvement Project.

EXECUTIVE SUMMARY

This item is coming to Council because the appropriation of the funds is the sole source of funding for improvements to Veteran's Plaza. The improvements are to be completed prior to Memorial Day, May 25, 2020, as Veteran's Plaza of Northern Colorado hosts a memorial event at this location annually.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $10,752 of philanthropic revenue in the General Fund for transfer to the Capital Projects Fund to be used for improvements at the Veterans Plaza in Spring Canyon Community Park. The charitable gift, facilitated by City Give, was made by Veterans Plaza of Northern Colorado. The charitable funding will underwrite the costs of improvements to construct a new sidewalk from the parking area to Veterans Plaza and provide other site improvements.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 046, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

April 7, 2020

STAFF

Greg Oakes, Landscape Architect
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 046, 2020, Appropriating Unanticipated Philanthropic Revenue from Veterans Plaza of Northern Colorado in the General Fund and Transferring it to the Capital Projects Fund for the Veterans Plaza Improvement Project.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate $10,752 in philanthropic revenue in the General Fund for transfer to the Capital Projects Fund to be used for improvements at the Veterans Plaza in Spring Canyon Community Park. The charitable gift, facilitated by City Give, was made by Veterans Plaza of Northern Colorado. The charitable funding will underwrite the costs of improvements to construct a new sidewalk from the parking area to Veterans Plaza and provide other site improvements.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Veterans Plaza of Northern Colorado is a community partnership between many local organizations, including the City of Fort Collins, Community Foundation of Northern Colorado, and the nonprofit Veterans Plaza of Northern Colorado Board and volunteers who manage the site, host local programming, advocate, and fundraise on behalf of the Plaza.

Located at 2626 West Horsetooth Road in the scenic Spring Canyon Community Park in southwest Fort Collins, Veterans Plaza provides a place to remember the sacrifice willingly made by veterans, whether in times of war or times of peace.

Officially opened in November 2011, Veterans Plaza provides an educational destination for children and adults to learn about the military heroes who are part of our nation’s history, recognizes those who continue to serve and who will serve in the future.

The City of Fort Collins is grateful to partner with such a passionate group of volunteers who tirelessly support U.S. veterans who have served, are serving, and will serve this great nation.

Entry improvements to Veterans Plaza include an additional concrete walk, landscape planting enhancements and two concrete tent pads that will be utilized during the many special events that take place at the Plaza.

The City Manager recommends the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in the
General Fund during this fiscal year. He is also recommending the transfer described herein and has determined that the purpose for which the transferred funds are to be expended remains unchanged.

CITY FINANCIAL IMPACTS

This Ordinance will appropriate $10,752 of unanticipated philanthropic revenue which meets the projected budget for the proposed capital improvements for this project. The project scope and budget were developed by Park Planning and Development in collaboration with Veterans Plaza of Northern Colorado.

The revenue is being appropriated in the General Fund for transfer to the Capital Projects Fund for the Veterans Plaza project. The funds have been received and accepted per City Give Administrative and Financial Policy.

PUBLIC OUTREACH

No public outreach is anticipated regarding these improvements to Veterans Plaza.
ORDINANCE NO. 046, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED PHILANTHROPIC REVENUE FROM
VETERANS PLAZA OF NORTHERN COLORADO IN THE GENERAL
FUND AND TRANSFERRING IT TO THE CAPITAL PROJECTS FUND
FOR THE VETERANS PLAZA IMPROVEMENT PROJECT

WHEREAS, in 2011 the City opened to the public Veterans Plaza at Spring Canyon Park,
a place to honor our veterans and educate the public about our military heroes; and

WHEREAS, Veterans Plaza of Northern Colorado, a community partnership between
many local organizations, has raised and donated to the City $10,752 to fund capital improvements
to Veterans Plaza, including an additional concrete walk, landscaping improvements, and concrete
tent pads for use during special events at the Plaza (the “Project”); and

WHEREAS, this Ordinance appropriates this unanticipated revenue in the General Fund
and transfers it to the Capital Projects Fund to cover the costs of the Project; and

WHEREAS, this appropriation benefits public health, safety and welfare of the residents
of Fort Collins and serves the public purpose of funding capital improvements to Veterans Plaza;
and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make
supplemental appropriations by ordinance at any time during the fiscal year, provided that the total
amount of such supplemental appropriations, in combination with all previous appropriations for
that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be
received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and
determined that these appropriations are available and previously unappropriated from the General
Fund and will not cause the total amount appropriated in the General Fund to exceed the current
estimate of actual and anticipated revenues to be received in these funds during the fiscal year; and

WHEREAS, Article V, Section 10, of the City Charter authorizes the City Council to
transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof
from one fund or capital project account to another fund or capital project account, provided that
the purpose for which the transferred funds are to be expended remains unchanged; and

WHEREAS, the City Manager has recommended the transfer described herein and
determined that the purpose for which the transferred funds are to be expended remains unchanged.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:
Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from unanticipated philanthropic revenue in the General Fund the sum of TEN THOUSAND SEVEN HUNDRED FIFTY-TWO DOLLARS ($10,752) for transfer to the Capital Projects Fund and appropriated therein for the Veterans Plaza Improvement Project.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
City Council

April 21, 2020

STAFF

Tommy Brennan, Senior Real Estate Specialist
Coy Althoff, Utilities Engineer
Ryan Malarky, Legal

SUBJECT

Second Reading of Ordinance No. 051, 2020, Authorizing the Sale of Real Property Located Adjacent to the Utilities Service Center at 700 Wood Street.

EXECUTIVE SUMMARY

This item is coming to Council on Second Reading because it is necessary to move the agreement forward in order to complete the transaction and receive the sale proceeds.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, authorizes the sale of City-owned real property located at approximately 525 North Whitcomb Street, adjacent to the City’s Utilities Services Center located at 700 Wood Street. The property is a small offsetting portion of the Utility Service Center development and consists of 1,680 square feet. The buyers are the owners of real property at 525 North Whitcomb Street. The sale price is $6,720 and the proceeds will be placed in the Light and Power Fund.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7 2020 (w/o attachments)(PDF)
2. Ordinance No. 051, 2020 (PDF)
AGENDA ITEM SUMMARY                   April 7, 2020
City Council

STAFF
Tommy Brennan, Senior Real Estate Specialist
Coy Althoff, Utilities Engineer
Ryan Malarky, Legal

SUBJECT
First Reading of Ordinance No. 051, 2020, Authorizing the Sale of Real Property Located Adjacent to the Utilities Service Center at 700 Wood Street.

EXECUTIVE SUMMARY
The purpose of this item is to authorize the sale of City-owned real property located at approximately 525 North Whitcomb Street, adjacent to the City’s Utilities Service Center located at 700 Wood Street. The property is a small offsetting portion of the Utility Service Center development and consists of 1,680 square feet. The buyers are the owners of real property at 525 North Whitcomb Street. The sale price is $6,720 and the proceeds will be placed in the Light and Power Fund.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
In November 1998, the City purchased approximately 1.7 acres abutting the Utility Service Center site from Burlington Northern & Santa Fe Railway Company to help facilitate the Utility Service Center Master Development Plan. In 2007, the City conveyed a portion of this land to the former owners of the adjacent property located at 525 North Whitcomb to clean up an existing garage encroachment. In 2008, the City conveyed an additional 7-foot wide strip of City-owned property to the current owners of 525 North Whitcomb Street, Colleen J. Scholz and Peter M. Scholz. The purpose for that transaction was to clean up a fence encroachment.

The home at 525 North Whitcomb Street was demolished and rebuilt in 2009. At some point later, the Scholzes constructed an outbuilding on the 1,680-square-foot portion of City-owned property. City staff has not identified a current or future use for the 1,680 square feet and believes the best solution is for the 1,680 square feet to become part of the 525 North Whitcomb Street property. Colleen and Peter Scholz have executed a Purchase and Sale Agreement with the City to purchase the 1,680 square feet to clean up this most recent encroachment that is contingent upon City Council approval of the sale.

CITY FINANCIAL IMPACTS
The proposed sale price is $6,720, which is fair market value due to the parcel’s size, location and lack of utilization by any party other than the Scholzes. The proceeds from the sale of this property will be placed in the Light and Power Fund.

ATTACHMENTS
1. Location Map (PDF)
ORDINANCE NO. 051, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE SALE OF REAL PROPERTY LOCATED ADJACENT
TO THE UTILITIES SERVICE CENTER AT 700 WOOD STREET

WHEREAS, in November 1998, the City purchased 1.7 acres of real property from the
Burlington Northern & Santa Fe Railway Company, which land is adjacent to the City’s Utilities
Service Center located at 700 Wood Street: and

WHEREAS, the 1.7 acres was purchased to facilitate the Utilities Service Center Master
Development Plan; and

WHEREAS, the 1.7 acres is also adjacent to real property located at 525 North Whitcomb
Street; and

WHEREAS, at some point after 2009, the current owners of 525 North Whitcomb Street,
Colleen and Peter Scholz, constructed an outbuilding on 1,680 square feet of the City-owned
property (the “Property”); and

WHEREAS, the City has no current or future identified use for the Property; and

WHEREAS, because there is no foreseeable City use of the Property, staff is
recommending the Property be sold to the Scholzes and the proceeds be placed in the Light and
Power Fund; and

WHEREAS, staff has identified the fair market value of the Property to be $6,270; and

WHEREAS, Section 23-111 of the City Code authorizes the City Council to sell, convey
or otherwise dispose of any interest in real property owned by the City, provided the City Council
first finds, by ordinance, that such sale or other disposition is in the best interests of the City and,
for real property that is part of the City’s utility systems, that the disposition will not materially
impair the viability of that utility system as a whole and will be for the benefit of the citizens of
the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the sale of the Property to Colleen
and Peter Scholz as provided herein is in the best interests of the City, will not impair the viability
of the City’s utility systems, and will be for the benefit of the citizens of the City.
Section 3. That the Mayor is hereby authorized to execute a deed and such other documents as are necessary to convey the Property to the Scholzes on terms and conditions consistent with this Ordinance, together with such other additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance, including but not limited to any necessary changes to the legal description of the Property, as long as such changes do not materially increase the size of the parcel to be conveyed.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
April 21, 2020

STAFF
David Myers, Land Conservation Manager
Tawnya Ernst, Real Estate Specialist III
John Stokes, Natural Resources Director
Ingrid Decker, Legal

SUBJECT
Second Reading of Ordinance No. 052, 2020, Authorizing the Conveyance of a Permanent Sanitary Sewer Line Easement and a Temporary Construction Easement on Soaring Vista Natural Area to South Fort Collins Sanitation District.

EXECUTIVE SUMMARY
This item is coming to Council on Second Reading. Council authorization is the final step after more than a year of negotiations related to easement terms and finalizing the language of the agreement.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, authorizes the conveyance of a permanent sanitary sewer line easement and a temporary construction easement to South Fort Collins Sanitation District (SFCSD) on behalf of Interstate Land Holdings, LLC (ILH) on Soaring Vista Natural Area. The proposed easement area aligns with an existing sewer line easement held by South Fort Collins Sanitation District on the west side of the natural area.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 052, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council
April 7, 2020

STAFF
David Myers, Land Conservation Manager
Tawnya Ernst, Real Estate Specialist III
John Stokes, Natural Resources Director
Ingrid Decker, Legal

SUBJECT
First Reading of Ordinance No. 052, 2020, Authorizing the Conveyance of a Permanent Sanitary Sewer Line Easement and a Temporary Construction Easement on Soaring Vista Natural Area to South Fort Collins Sanitation District.

EXECUTIVE SUMMARY
The purpose of this item is to authorize the conveyance of a permanent sanitary sewer line easement and a temporary construction easement to South Fort Collins Sanitation District (SFCSD) on behalf of Interstate Land Holdings, LLC (ILH) on Soaring Vista Natural Area. The proposed easement area aligns with an existing sewer line easement held by South Fort Collins Sanitation District on the west side of the natural area.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
Natural Areas staff was approached in January 2019 by ILH requesting an easement to install a 10-inch sanitary sewer line through a portion of Soaring Vista to tie into an existing 10-inch South Fort Collins Sanitation District (SFCSD) sewer main that runs east/west through Soaring Vista Natural Area. Soaring Vista sits on the north side of County Road 30 near I-25 between the Mountain Range Shadows neighborhood to the east and Eagle Ranch Estates to the west. ILH’s plans to develop an adjoining property south of Soaring Vista necessitate the additional sewer line across the Natural Area. ILH will install the sewer line in coordination with SFCSD. Because SFCSD will be responsible for the maintenance and operation of the sewer line, staff, ILH and SFCSD decided it was best that the easement be granted to SFCSD.

At the preliminary meeting in January, ILH explained the 10-inch sewer main south of their property has issues they cannot overcome; the line is at capacity and the elevation of the line does not work, because they cannot get the required fall to tie into the sewer main. Staff did not ask the applicant to consider running the sewer line across the Eagle Ranch Estates land because it would require disturbing quality wetlands adjacent to Soaring Vista. The sewer line cannot be tied into the Mountain Shadows neighborhood to the east because they cannot get the fall, or the capacity required.

At the Land Conservation Stewardship Board’s (LCSB) request, staff asked ILH to consider placing the sewer line along the east boundary of Soaring Vista. They determined that they could, but that alignment would require a hard surface access road. Since staff and the LCSB preferred to not have a hard surface access road, staff is recommending the western alignment.
The only viable option is to tie into the existing 10-inch line on Soaring Vista Natural Area. ILH and Natural Areas staff worked together to identify the proposed western alignment. ILH has since obtained easement agreements on the Thayer/McCreery and Sprague properties and an approval letter from SFCSD stating that a hard surface access road through Soaring Vista along the western alignment is not required, because the location of the line along the west boundary allows them to manage and maintain the line from the adjoining properties.

The proposed sewer line will not only service the ILH development, Airpark North but, will also service the Thayer/McCreery property when it is developed. Minimal impact is anticipated because the site has not yet been restored. Due to the timing of this request and anticipated plans for the site, appropriate restoration will be planned around the construction of the sewer line. The easements will require that all work on the City property be done in accordance with the Natural Areas Resource Protection Standards. The 30-foot wide permanent easement covers 1.133 acres (49,368 square feet) and the temporary construction easement crosses 2.175 acres (94,764 square feet) of the 113-acre Natural Area.

CITY FINANCIAL IMPACTS

In accordance with Section 23-114 of the Municipal Code, any conveyance of City real property must be for an amount equal to or greater than the fair market value. The estimated market value of the City’s ownership in the requested easements is as follows: $3,412/year for the temporary construction easement and $26,165 for the permanent easement plus a $9,945 restoration fee ($3,000/acre for approximately 3 acres of disturbance). The easement fees are based on 100% of the per acre full fair market value of the natural area.

ILH, not SFCSD, will pay for the easement. The City and ILH have agreed to enter into a reimbursement agreement spelling out the terms of payment. The easement will not be recorded and effective until ILH has received approval for its development and made payment to the City.

BOARD / COMMISSION RECOMMENDATION

At its December 11, 2019, meeting, the Land Conservation Stewardship Board voted unanimously to recommend City Council approve the conveyance of the sanitary sewer line.

ATTACHMENTS

1. Soaring Vista Vicinity Map (PDF)
2. Proposed Easement Alignment (PDF)
3. Land Construction and Stewardship Board Minutes, December 11, 2019 (PDF)
ORDINANCE NO. 052, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PERMANENT SANITARY SEWER LINE
EASEMENT AND A TEMPORARY CONSTRUCTION EASEMENT ON SOARING VISTA
NATURAL AREA TO SOUTH FORT COLLINS SANITATION DISTRICT

WHEREAS, the City is the owner of a parcel of land in southeast Fort Collins as more
particularly described on Exhibit “A”, attached hereto and incorporated herein by reference,
known as Soaring Vista Natural Area (the “City Property”); and

WHEREAS, Interstate Land Holdings, LLC (“Developer”) is in the process of obtaining
the necessary development approvals for a development in north Loveland south of the City
Property (the “Project”); and

WHEREAS, Developer has requested a permanent sewer line easement (“the “Easement”)
and a temporary construction easement (the “TCE”) on the City Property (together, the
“Easements”) for installation of a sanitary sewer line for South Fort Collins Sanitation District (the
“District”) to serve the Project; and

WHEREAS, the Easement is more particularly described on Exhibit “B”, and the TCE is
more particularly described on Exhibit “C”, both attached hereto and incorporated herein by this
reference; and

WHEREAS, the City would grant the Easements to the District, but Developer would pay
for the Easements pursuant to a Reimbursement Agreement between the City and the Developer;
and

WHEREAS, under the Reimbursement Agreement, Developer would pay the City the fair
market value of the property interests conveyed: $26,165 for the Easement and $3,412 per year for
use of the TCE, as well as a restoration fee of $9,945 for disturbance to the City Property caused
by the initial installation of the sewer line; and

WHEREAS, Developer would not record or pay the City for the easements until Developer
receives its necessary approvals for the Project from the City of Loveland, but if Developer does
not receive its approvals for the Project, the Easements would terminate; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey
or otherwise dispose of any interests in real property owned by the City, provided the City Council
first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, at its regular meeting on December 11, 2019, the Land Conservation and
Stewardship Board voted to recommend City Council approve the conveyance of the Easement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

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Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the conveyance of the Easements to South Fort Collins Sanitation District as provided herein is in the best interests of the City.

Section 3. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easements to the District on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Section 4. That the City Manager is hereby authorized to execute a Reimbursement Agreement with the Developer as described herein on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk
Legal Description
Soaring Vista Natural Area

The W1/2 of the SW1/4 and the SW1/4 of the NW1/4 of Section 22, Township 6 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado

EXCEPTING THEREFROM the right of way for County Road as established and/or used;

ALSO EXCEPTING THEREFROM those parcels described in Deeds recorded December 11, 1985, at Reception No. 85062821 and August 20, 1991, at Reception No. 91039306.

(Street Address: 4200 East County Road 30, Fort Collins, Colorado)
PROPERTY DESCRIPTION
Permanent Easement

Being part of that parcel as described in Special Warranty Deed as recorded October 2, 2015 as Reception No. 20150065994 of the Records of Larimer County, located in the Southwest Quarter (SW1/4) of Section Twenty-Two (22), Township Six North (T.6N.), Range Sixty-Eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado and being more particularly described as follows:

COMMENCING at the Southwest corner of said Section 22 and assuming the South line of said Southwest Quarter as bearing South 89°28'33" East being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2617.09 feet with all other bearings contained herein relative thereto;

THENCE North 00°12'21" East along the West line of said Southwest Quarter a distance of 544.51 feet to a point on the North line of that certain parcel as described in Quit Claim Deed as recorded December 11, 1985 as Reception No. 85062821 of the Records of Larimer County;

THENCE South 89°28'33" East along said North line a distance of 5.41 feet to the POINT OF BEGINNING.

THENCE North 00°20'38" West a distance of 565.35 feet;

THENCE North 00°11'47" East a distance of 550.46 feet;

THENCE North 03°06'58" East a distance of 529.69 feet to a point on the South line of that certain Easement as described in Grant of Easement as recorded February 21, 1990 as Reception No. 90007579 of the Records of Larimer County;

THENCE South 89°47'59" East along said South line a distance of 30.04 feet;

THENCE South 03°06'58" West a distance of 530.45 feet;

THENCE South 00°11'47" West a distance of 349.55 feet;

THENCE South 00°20'38" East a distance of 565.66 feet to a point on the North line of that certain parcel as described in Quit Claim Deed as recorded December 11, 1985 as Reception No. 85062821 of the Records of Larimer County;

THENCE North 89°28'33" West along said North line a distance of 30.00 feet to the POINT OF BEGINNING.

Said described parcel of land contains 49,368 Square Feet or 1.133 Acres, more or less (+), and is subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

I, Paul B. Groves, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.

[Signature]

Paul B. Groves - on behalf of King Surveyors
Colorado Licensed Professional
Land Surveyor #38209

KING SURVEYORS
650 East Garson Drive
Windsor, Colorado 80550
(970) 686-5011
NOTE: This exhibit drawing is not intended to be a monumented land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (13-80-105 C.R.S. 2012)
PROPERTY DESCRIPTION
Temporary Easement

Being part of that parcel as described in Special Warranty Deed as recorded October 2, 2015 as
Reception No. 20150065944 of the Records of Larimer County, located in the Southwest Quarter
(SW1/4) of Section Twenty-Two (22), Township Six North (T.6N.), Range Sixty-Eight West (R.68W.)
of the Sixth Principal Meridian (6th P.M.), County of Larimer, State of Colorado and being more
particularly described as follows:

COMMENCING at the Southwest corner of said Section 22 and assuming the South line of said
Southwest Quarter as bearing South 89°28'33" East being a Grid Bearing of the Colorado State Plane
Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2617.09 feet with all
other bearings contained herein relative thereto;
THENCE South 89°28'33" East along said South line a distance of 781.99 feet to the POINT OF
BEGINNING;
THENCE North 03°30'12" West a distance of 567.30 feet;
THENCE North 87°56'32" West a distance of 680.58 feet;
THENCE South 00°20'38" East a distance of 39.62 feet to a point on the North line of that certain
parcel as described in Quit Claim Deed as recorded December 11, 1985 as Reception No. 85062821 of
the Records of Larimer County;
THENCE North 89°28'33" West along said North line a distance of 30.00 feet;
THENCE North 00°20'38" West a distance of 566.66 feet;
THENCE North 00°11'47" East a distance of 549.55 feet;
THENCE North 03°06'58" East a distance of 530.45 feet to a point on the South line of that certain
Easement as described in Grant of Easement as recorded February 21, 1990 as Reception No. 90007579
of the Records of Larimer County;
THENCE South 89°47'59" East along said South line a distance of 30.04 feet;
THENCE South 03°00'58" West a distance of 531.21 feet;
THENCE South 00°11'47" West a distance of 548.65 feet;
THENCE South 00°20'38" East a distance of 486.32 feet;
THENCE South 87°56'32" West a distance of 708.51 feet;
THENCE South 03°00'12" East a distance of 606.68 feet to the South line of said Southwest Quarter
for Section 22;
THENCE North 89°28'33" West along said South line a distance of 30.07 feet to the POINT OF
BEGINNING.

Said described parcel of land contains 94,764 Square Feet or 2.175 Acres, more or less (±), and is
subject to any rights-of-way or other easements of record or as now existing on said described parcel of
land.

SURVEYORS STATEMENT

I, Paul B. Groves, a Colorado Licensed Professional Land Surveyor do hereby state that this Property
Description was prepared under my personal supervision and checking, and that it is true and correct to
the best of my knowledge and belief.

[Signature]
Paul B. Groves - on behalf of King Surveyors
Colorado Licensed Professional
Land Surveyor #38209

KING SURVEYORS
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011
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(13-80-105 C.R.S. 2012)
AGENDA ITEM SUMMARY

City Council

April 21, 2020

STAFF

Mariel Miller, Water Conservation Specialist
Lisa Rosintoski, Utilities Deputy Director, Customer Connections
Donnie Dustin, Water Resources Manager
Liesel Hans, Water Conservation Manager
Eric Potyondy, Legal

SUBJECT

Second Reading of Ordinance No. 053, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a Water Shortage Action Plan (Previously Known as the Water Supply Shortage Response Plan) and Making Various Related Changes.

EXECUTIVE SUMMARY

This Second Reading is necessary to continue the public process and ensure the updated Water Shortage Action Plan can be utilized when responding to future water shortages.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, adopts into City Code by reference an updated Water Supply Shortage Response Plan (WSSRP) for Fort Collins Utilities. The updated plan and updates to City Code Section 26-167(a) include: changing the name to the Water Shortage Action Plan (WSAP); adding new sections to the Plan; changes and additions to various restrictions; changes to the structure of the water restriction levels; and changes to the water rate increases during declared water shortages.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 053, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council
April 7, 2020

STAFF
Mariel Miller, Water Conservation Specialist
Lisa Rosintoski, Utilities Deputy Director, Customer Connections
Donnie Dustin, Water Resources Manager
Liesel Hans, Water Conservation Manager
Eric Potyondy, Legal

SUBJECT
Public Hearing and First Reading of Ordinance No. 053, 2020, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt a Water Shortage Action Plan (Previously Known as the Water Supply Shortage Response Plan) and Making Various Related Changes.

EXECUTIVE SUMMARY
The purpose of this item is to adopt into City Code by reference an updated Water Supply Shortage Response Plan (WSSRP) for Fort Collins Utilities. The updated plan and updates to City Code Section 26-167(a) include: changing the name to the Water Shortage Action Plan (WSAP); adding new sections to the Plan; changes and additions to various restrictions; changes to the structure of the water restriction levels; and changes to the water rate increases during declared water shortages.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
It has been seven years since the last water shortage (2013) and six years since the last update to the WSSRP (Ordinance No. 088, 2014). Staff has prepared an updated Plan for consideration that reflects a broader range of input than ever before, incorporates best practices from the Colorado Water Conservation Board (CWCB), and prepares for water shortage scenarios that are missing from the current Plan. Having and managing a water shortage plan is required by the current Water Supply and Demand Management Policy (2012).

The main objectives of this update are:

- Share and remind City staff and Utilities customers what a water shortage is and that the City has a response plan that requires water restrictions.
- Identify beneficial changes.
- Improve overall resiliency and preparation for the next water shortage.

History
Water shortages are a part of life in the arid west; however, like most of Colorado, Fort Collins Utilities did not have a formal provision in City Code or plan in place until 2002. In 2002, Fort Collins and much of Colorado experienced a severe drought, which extended into 2003, and provided the impetus to develop a plan. The first plan was adopted in July 2002 (Ordinance No. 112, 2002) and initially only restricted lawn watering. It was revised multiple times over the course of the 2002-2003 drought and was eventually replaced in April 2003.
What is a Water Shortage Action Plan?

A water shortage occurs when the projected water supply is less than the anticipated water demand, with consideration of water reserves in storage or other criteria, as defined by the Water Supply and Demand Management Policy. The following events, or combination of events, are examples that could cause a water shortage:

- Drought
- Water quality issues, such as contamination or fire
- Infrastructure issues, such as pipeline or water treatment facility issues

Given the variability in water shortage causes and impacts, a water shortage action plan requires an analytical approach that allows for flexibility to address the given shortage, as well as projected shortages that may be anticipated. The WSAP establishes flexible options with guidance and transparency (the new WSAP is Exhibit B to Ordinance NO. 053, 2020).

The existing WSSRP outlines four different response levels with corresponding water use restrictions, water rate increases, and simple information about violations and the water shortage declaration process (Attachment 1). The process for declaring a water shortage is:

1. Water Shortage Indicators (Section 1.4 of Exhibit B) and other necessary information is analyzed by Utilities and presented to the Action Committee (Section 1.6 of Exhibit B).
2. The Action Committee develops a recommendation with supporting data, description of the evaluation, and the proposed response.
   a. If Action Level IV is recommended, additional information should be provided to the City Manager that includes a description of which restriction(s) are recommended from the Action Summary Table (Section 1.2 of Exhibit B) and why; or in the case of an extreme water shortage, which types of indoor water uses will be rationed and to what degree or extent.
3. The recommendation is presented to the City Manager.
4. The City Manager considers the Action Committee’s recommendation to determine whether to declare a water shortage and, if so, which action level to select.
   a. If Action Level IV is selected, the City Manager must include a description in the declaration of which restriction(s) are selected from the Action Summary Table; or in the case of an extreme water shortage, which types of indoor water uses will be rationed and to what degree or extent.

When possible, City Council will be informed in advance of the water shortage declaration. A water shortage declaration may need to be made quickly, in order to minimize the severity of the shortage. In these instances, City Council will be notified as quickly as possible following the water shortage declaration. After the declaration of a water shortage, the City Manager shall issue a declaration and order pursuant to City Code 26-167(a), in conjunction with the City Attorney's Office and City Clerk.

Update Process

Starting in early 2019, staff researched other communities’ plans, consulted with the CWCB, and engaged the community as well as City and Utilities staff. Research and public engagement led to development of the guiding principles, which were then used to review the existing Plan’s approach and identify updates that better align the Plan with the community’s water use priorities. More information is included in the Public Outreach section and Attachment 4.

Proposed Water Shortage Action Plan (WSAP) Updates
Proposed changes have been informed by engagement efforts, recommendations from the CWCB, and research across Colorado’s Front Range and other western states’ utilities and communities. The following title change and added plan elements provide a more comprehensive water shortage response, in contrast to the previous WSSRP, which primarily consisted of a response summary table. These changes include, but are not limited to, the following. (See Attachment 2 for additional changes and more details.)

- Changes to the Action Summary Table (Section 1.2 of Exhibit B), such as:
  - Consolidation of previous levels to simplify and better reflect realistic water use reductions.
  - Addition of a voluntary “Water Shortage Watch” level to reflect best practices.
  - Addition of an Alternative level to allow Utilities to be prepared for and respond to unique or extreme water shortages, like those that may occur during winters months or a shortage due to a planned or unplanned infrastructure outage.
- Change to the Plan’s title; change from “Water Supply Shortage Response Plan” to “Water Shortage Action Plan,” to reflect that shortages may stem from a water quality or infrastructure issue, in addition to a water quantity issue.
- Added Plan elements, such as:
  - Guiding principles, which incorporate the community’s water use priorities, as well as other best practices.
  - Explanation of the water shortage indicators, which establish criteria used to evaluate a water shortage and inform the selection of an action level.
  - Other response strategies, such as short-term water supply options to compliment the water use restrictions.
  - Creation of an Action Committee who would review the water shortage indicator analyses and other relevant information and propose a water shortage declaration recommendation to the City Manager.
  - Communication and engagement plan to utilize before or during a water shortage.
  - WSAP update cycle and process for community review and engagement. Establishes a regular update cycle of 5 years or less.
  - Recommendations to be pursued in future updates, depending on resources and feasibility.

Connections and Next Steps

Utilities staff recently completed a Water Supply Vulnerability Study. This highlighted the need to re-evaluate water supply and demand planning to reflect a variety of future scenarios and the impacts of increased variability due to climate change impacts. The study indicated that the City may need to enact water restrictions more frequently than in the past without additional water supplies and/or water conservation. The information from this Study will be incorporated in the update of the Water Supply and Demand Management Policy, which is being updated over the next couple of years. After that point, there may be new Utilities water planning criteria and level of service goals that could prompt and inform an update to the WSAP.

The WSAP update process highlighted areas to explore, such as greater regional water shortage collaboration and identification and development of short-term supplies, as part of the next Plan update process but were beyond the scope of this project. Further evaluation of these opportunities is expected within the next update cycle. Additional funding and support for future enhancements to the Plan will be explored.

The CWCB provides technical assistance and grant funding for water shortage planning and implementation. In order to be eligible for grant funding, water providers must submit adopted and final plans to CWCB for a formal review process. The WSAP has received a preliminary review from CWCB and Utilities Staff will submit for a formal review, if it is adopted by City Council.

Strategic Alignment

The WSAP is aligned with numerous City plans and policies, as well as supported by the State of Colorado.
City Strategic Plan (2018)

- Environmental Health
  - 4.5 Develop strategies to improve the community’s climate resiliency
  - 4.6 Provide a reliable, high-quality water supply

- Safe Community
  - 5.1 Improve community involvement, education and regional partnerships to increase the level of public trust and keep the community safe

- High Performing Government
  - 7.1 Provide world-class municipal services to residents and businesses
  - 7.3 Promote a values-driven organizational culture that maintains the public trust through ethical behavior and transparency
  - 7.6 Leverage data, technology, metrics and benchmarks to guide decisions, improve results and enhance service delivery

City Plan (2019)

- Policy ENV 2.2 - Integrate Mitigation and Resilience Actions
- Policy ENV 6.1 - Water Resource Planning
- Policy ENV 6.3 - Droughts and Vulnerability
- Policy HI 1.4 - Continuous Improvement in Service

Water Supply and Demand Management Policy (2012)

- Water Supply and Demand Management Policy (Policy), which provides a foundational framework for water supply and demand management decisions concerning the City’s water supply system. Per the current Policy, the City plans to have water supplies that can meet demands through a 1-in-50 year drought without mandatory restrictions. As stated in Section 2.3 of the Policy, for more extreme droughts or during emergencies, a plan to respond to these situations shall be developed and maintained.

State of Colorado Water Conservation Board

- Colorado Drought Mitigation and Response Plan (2018) identifies drought as a key hazard and incorporates the importance of drought planning at a local level into the State Plan.
- State Code Section 37-60-126.5, Drought Mitigation Planning; authorizing the CWCB to support local planning effort with State assistance.

CITY FINANCIAL IMPACTS

Utilities’ revenue is expected to be reduced during a water shortage due to reduced water consumption from water use restrictions. Staff evaluated the existing water rate increases in the current WSSRP and adjusted rate increases in the proposed WSAP to reflect updated revenue recovery estimations (Section 1.2 of Exhibit B). The proposed volumetric rate increases, 20% at Action Level II and 30% at Action Level III, are estimated to adequately recover lost revenue while providing no cost increase to customers who reduce their consumption by the estimated amount expected during a water shortage at the corresponding Action Levels. For example, the average bill impact for a single-family residential customer or commercial customer in a year with Action Level II restrictions, would result in a savings of $6.60 and $23.00, respectively, if use was reduced by the expected 20%.

Additional financial resources may be needed for implementation and enforcement during a water shortage. It’s expected that those additional resources needed will come from Utilities enterprise fund.

BOARD / COMMISSION RECOMMENDATION

Item # 18 Page 4
At its February 20, 2020 meeting, the Water Board unanimously recommended approval of the updates to the Water Supply Shortage Response Plan. (Attachment 3)

PUBLIC OUTREACH

Around 800 people were engaged at 65 different meetings and presentations, plus hundreds of others across larger community-scale events. A main objective of the project was to inform and remind City and Utilities staff, City boards and commissions, customers and stakeholders that when water shortages occur, the City has a plan, as well as identify potential beneficial changes. Many City departments had not previously been involved in planning for water shortages and the proposed Plan includes several updates that would not have been identified without these conversations and partnerships. Staff utilized engagement efforts, like focus groups and surveys, to better understand broad and restriction-specific challenges and beneficial changes that might address these challenges. The engagement activities included numerous interactive feedback and data gathering tactics that provided quantitative and qualitative outcomes. For example, a voting activity was designed to quickly and easily gather public input on how to prioritize water use during shortages. This activity was used at several events during the public engagement phase. The community's feedback from this activity helped develop the framework for the Plan's guiding principles and provided a lens for evaluating water use restrictions. (Attachment 4)

Cross-Departmental Partnerships

During the engagement effort, numerous opportunities for greater partnership and collaboration between Water Conservation and others developed. The following highlight some of these cross-departmental partnerships within the City organization:

- **Code Compliance** has agreed to assist in enforcement efforts during water shortages, which is a great improvement from what has previously been complaint-based enforcement done solely by Water Conservation due to limited Staff.
- **Environmental Regulatory Affairs and Environmental Services** worked with Water Conservation to develop the dust control restrictions and ensure they're aligned with other City Codes and supported by the Dust Control and Prevention Manual.
- **Parks and Golf** have stated that they would follow the water use restrictions on all parks and golf courses, regardless of whether they're on raw water or the City's treated water. Most of these facilities are irrigated with raw water (exempt from water use restrictions), which can cause public perception challenges when not following restrictions or do not have park related watering permits.
- **Streets** helped develop the street sweeping water use restrictions and agreed to modify their street sweeping schedule during a water shortage to accommodate lesser water use, but still allow for essential street sweeping needed to maintain health and safety.
- **Emergency Preparedness and Security (EPS)** provided valuable input for the WSAP - connecting it to other emergency planning efforts and providing input on the structure of the summary table. EPS would participate on the water shortage response committee to provide emergency planning expertise and allow for continuity if a water shortage were to ever evolve into a scenario that necessitated an emergency response.

Other Water Districts

Staff met with East Larimer County and Fort Collins-Loveland Water Districts during the Plan's review and update. Staff identified the benefits of having an aligned and unified action plan but realized there are many challenges that make it difficult to collaborate during a water shortage, such as differing water portfolios, resources, and other considerations which are not aligned well between Utilities and the districts.

Staff identified that there may be opportunities for collaboration, depending on the water shortage scenario. Discussions with districts prior to and during a water shortage, will help identify these opportunities. WSAP has included the following processes and highlighted these coordination points within the document, to help better facilitate the potential for district partnerships.
• **Stakeholder Committee** (Section 1.6 of Exhibit B)-water districts are listed entities on this committee to provide continuity between the districts and throughout a water shortage; and allow for early collaboration opportunities.

• **Communication and Engagement Plan** (Appendix A of Exhibit B)-water districts are named within the plan and identified as potential communication partners.

• **Future WSAP updates** (Section 4.3 of Exhibit B)-regional water shortage approach is identified as a future update that would take time and commitments to develop but could provide important benefits to water providers and customers.

**ATTACHMENTS**

1. Current Plan (WSSRP) (PDF)
2. Summary of WSAP Updates (PDF)
3. Engagement Summary (PDF)
4. Memo to Council March 11, 2019 (PDF)
5. Memo to Council December 5, 2019 (PDF)
6. Water Board Meeting Minutes Feb 20 2020 (PDF)
7. Powerpoint presentation (PDF)
ORDINANCE NO. 053, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF
FORT COLLINS TO ADOPT A WATER SHORTAGE ACTION PLAN
(PREVIOUSLY KNOWN AS THE WATER SUPPLY SHORTAGE
RESPONSE PLAN) AND MAKING VARIOUS RELATED CHANGES

WHEREAS, the City owns and operates Fort Collins Utilities, which includes a water utility (“Water Utility”), as described in Article III of Chapter 26 of the Code of the City of Fort Collins (“City Code”); and

WHEREAS, the Water Utility, among other things, provides treated water service to customers in its water service area; and

WHEREAS, City Code Section 26-167(a) concerns the Water Utility’s water supply shortage response and contemplates the City’s adoption of a Water Supply Shortage Response Plan (to be renamed through this ordinance as a “Water Shortage Action Plan”) to establish conditions and restrictions to be used by the City Manager to manage the City’s water supply in the event of projected shortages in supply; and

WHEREAS, pursuant to City Charter, Article II, Section 7, City Council may enact any ordinance which adopts any code by reference in whole or in part provided that before adoption of such ordinance the Council shall hold a public hearing thereon and notice of the hearing shall be published twice in the newspaper of general circulation, published in the city, one (1) of such publications to be at least eight (8) days preceding the hearing and the other at least fifteen (15) days preceding the hearing; and

WHEREAS, in compliance with City Charter, Article II, Section 7, the City Clerk published in the Fort Collins Coloradoan such notice of hearing on March 22, 2020, and March 29, 2020; and

WHEREAS, the attached Exhibit “A” is a copy of the text of the Notice of Public Hearing that was so published and which the Council hereby finds meets the requirements of City Charter, Article II, Section 7; and

WHEREAS, pursuant to City Code Section 1-14, at least one copy of the Water Shortage Action Plan shall be kept on file in the office of the City Clerk available for public inspection, and one copy shall be kept in the office of the Utilities Executive Director; and

WHEREAS, City Code Section 26-168 states that any person who violates any provision of Division 6 of Article III of Chapter 26 of City Code commits a civil infraction and shall be subject to the provisions of City Code Section 1-15, as modified by the Water Shortage Action Plan, and that each day that a prohibited conditioned is maintained shall constitute a separate offense; and

-1-
WHEREAS, the Water Board has recommended adoption of the Water Shortage Action Plan; and

WHEREAS, the City Manager and City staff have recommended to the City Council that the Water Shortage Action Plan be adopted by reference and that the following changes be made.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That all current and previous versions of the Water Supply Shortage Response Plan including, but not limited to, those adopted by Ordinance No. 048, 2003, Ordinance No. 047, 2013, and Ordinance No. 088, 2014, are repealed in their entirety.

Section 3. That Section 26-167 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-167. - Water supply shortage response; emergency restrictions.

(a) Water supply shortage. Pursuant to the authority conferred by Article II, Section 7 of the Charter, there is hereby adopted by reference the Water Shortage Action Plan, dated April 2020, as the plan to establish conditions and restrictions to be used by the City Manager to manage the water utility’s water supply in the event of projected shortages in supply, which shall have the same force and effect as though set forth herein. One (1) copy of the Water Shortage Action Plan shall be kept on file in the office of the City Clerk and available for public inspection during regular business hours. In the event the City Manager determines, pursuant to the Water Shortage Action Plan, that restrictions on the use of water by water utility customers are necessary in order to manage the availability of water for use in the immediate future or within the planning horizon for managing the water utility’s water supply, the City Manager may determine the applicable water supply shortage response level and declare as applicable the associated water use restrictions, as set forth in the Water Shortage Action Plan. The City Manager’s declaration and order prescribing use restrictions shall be effective on the date specified in such order. The City Manager shall cause publication of any such order no less than once in a daily newspaper published in Fort Collins on or prior to the effective date. Such order of the City Manager shall continue in full force and effect until the City Manager has determined that the water supply shortage response level has changed or that the projected water supply shortage has ended, and a determination and order to that effect has been published in the same manner as for an initial declaration.

Section 4. That Section 26-168 of the Code of the City of Fort Collins is hereby amended to read as follows:
Sec. 26-168. - Obligation to comply; penalties.

(c) Violation of plan or permit. No person shall violate the restrictions or requirements of any Water Shortage Action Plan provision or emergency restriction that the City Manager has ordered into effect in accordance with this Section, or any permit issued thereunder.

(d) Civil infraction. Any person found guilty of violating any provision of this Division or any restriction or requirement imposed pursuant to this Division, whether by acting in a manner declared to be unlawful or failing to act as required, commits a civil infraction and shall be subject to the penalty provisions of Subsection 1-15(f) of this Code, except that, notwithstanding the provisions of Subsection 1-15(f), fines for violations of a Water Shortage Action Plan restriction or requirement imposed pursuant to this Division shall be as set forth in said Plan as adopted.

Section 5. That the Water Shortage Action Plan dated April 2020, which is on file with the City Clerk and also attached hereto as Exhibit “B” is hereby approved and adopted by reference.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
NOTICE OF PUBLIC HEARING

NOTICE is hereby given of a public hearing to be held before the City Council of the City of Fort Collins, Colorado, on the 7th day of April, A.D., 2020 at 6:00 p.m., or as soon thereafter as the matter may come on for hearing, in the Council Chambers at the City Hall, 300 LaPorte Avenue, Fort Collins, Colorado for the purpose of considering an ordinance adopting by reference the Water Shortage Action Plan, dated April 2020, prepared by City of Fort Collins staff.

Not less than one (1) copy of said Plan has been, and now is on file in the Office of the City Clerk of the City of Fort Collins and is available for public inspection.

The purpose of the Water Shortage Action Plan, dated April 2020, adopted by said ordinance is to establish conditions and restrictions to be used by the City Manager to manage the water utility’s water supply in the event of projected shortages in supply. In the event the City Manager determines, pursuant to the Plan, that restrictions on the use of water by water utility customers are necessary in order to manage the availability of water for use in the immediate future or within the planning horizon for managing the water utility’s water supply, the City Manager may determine the applicable water supply shortage response level and declare as applicable the associated water use restrictions, as set forth in the Plan.

The City of Fort Collins will make reasonable accommodations for access to City services, programs and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

This notice is given and published by order of the City of Fort Collins, Colorado.

Dated at Fort Collins, Colorado this 22nd day of March, A.D. 2020.

Delynn Coldiron
City Clerk
As adopted by Fort Collins City Council April 2020, as referenced in Section 26-167(a) of the Code of the City of Fort Collins

Water Shortage Action Plan
April 2020
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Glossary

**Action Summary Table** shall mean the table included as part of this *WSAP* that summarizes the various action levels and associated water use restrictions that are associated with different projected water shortages. This table is a key aspect of *WSAP* and shall be used by the City and City Manager when implementing this the *WSAP* and when imposing any restrictions on the use of water by water utility customers pursuant to City Code 26-167(a).

**Active area** shall mean a property or portion of a property that is used for athletics or playing field by an organization for routine and frequent use, including a golf course’s fairways.

**Arterial street** shall mean high capacity, urban road that moves traffic to collectors and other arterial streets.

**Call** shall mean when a water user with a senior water right, forces upstream water users with junior water rights to let sufficient water flow in the river to meet the requirements of the senior water right. Calls are administered by the Colorado Division of Water Resources.

**CBT** shall mean the Colorado-Big Thompson Project (managed by *Northern Water*). *Utilities* receives *CBT* water from Horsetooth Reservoir. The amount of water allotted to each *CBT* contractual unit is referred to as *CBT* quota.

**Collector street** shall mean low to medium capacity road that moves traffic to local and arterial streets.

**Commercial** shall mean business, industrial, or institutional premises, and shall include sprinkler-only taps that are used solely for irrigation on these premises, and homeowner associations’ common areas.

**Community outdoor swimming pool** shall mean an outdoor structure that is filled with water and used for swimming and includes all in-ground pools, above-ground pools, and pools owned by an *HOA*, the City of Fort Collins, or any other entity; that are not for personal use and are accessible to the public or many people.

**Dealership vehicle** shall mean any unregistered vehicle on display or awaiting sale by a vehicle dealer or other person holding or selling vehicles in the normal course of business.

**Drip system** shall mean a low-pressure, low-volume irrigation system, above or below ground, that delivers water to the root zone of plant material through emitters or porous material at a low pressure. *Drip system* includes bubblers, drip emitters, in-line tubing, subsurface irrigation, or soaker hoses. *Drip system* excludes micro-sprays.

**Dust control measures** shall mean any actions or processes that are used to prevent or mitigate the emission of *fugitive dust* into the air, including, but not limited to, the best management practices identified in the *Dust Prevention and Control Manual (DPCM)*, as adopted under City Code Section 12-152. For the purposes of the *WSAP*, the dust control measures referenced shall be limited to those that require the use of water as defined in the *DCPM*, specifically on-tool wet suppression and wet suppression.

**Dust generating activities or sources** shall mean processes, operations, actions or land uses that create emissions of *fugitive dust* or cause off-property or off-vehicle transport, as described in more detail in the *DPCM*. 

Fort Collins Utilities

2020 Water Shortage Action Plan (WSAP)
**Essential power washing** shall mean cleaning with high-pressure, low-volume water or steam in an outdoor location or in a manner that discharges flows to the outdoors, in accordance with any applicable stormwater regulations and City Code Section 26-498, for health and safety reasons, graffiti abatement, surface preparation for the application of architectural coatings, or painting or cleaning of heating, ventilation and air conditioning equipment.

**Essential street sweeping** shall mean cleaning of paved right-of-way surfaces by the City or others, with equipment that uses water in accordance with any applicable stormwater regulations, including City Code Section 26-498, and **DPCM** for health, safety and environmental cleanup reasons.

**Food production** shall mean the application of water to vegetables, fruits, or herbs to be used as a source of food. **Food production** shall not mean landscape or lawn watering, watering of **trees** not used for **food production**, or watering with **well or raw water**.

**Fugitive dust** shall mean solid particulate matter emitted into the air by mechanical processes or natural forces but is not emitted through a stack, chimney, or vent.

**Hand watering** shall mean the application of water to plant material while holding a hose in hand that has a positive shut-off nozzle. **Hand watering** shall not mean watering with a **sprinkler** on the end of a hose.

**Health and safety reasons** shall mean reasons reasonably necessary to remedy an unsanitary or dangerous condition that poses a health or safety risk or danger to the public or to the occupants of a particular property.

**Horsetooth** shall mean Horsetooth Reservoir, which is part of the **CBT** system.

**HOA** shall mean a homeowners’ association, or similar organization.

**Inactive area** shall mean a property or portion of a property that is not used for athletics or other playing fields by an organization for routine and frequent use, including the rough area of a golf course.

**Individual outdoor swimming pool** shall mean an outdoor structure that is filled with water and used for swimming and includes all in-ground pools, above-ground pools, and pools owned by an individual for personal use and not accessible to the public or many people.

**Landscape watering** shall mean the use of treated or potable water obtained from **Utilities** to irrigate any **lawn, tree, food production**, flowers, shrubs, or other landscape plantings or plants. **Landscape watering** shall not mean watering with **well or raw water**.

**Lawn** shall mean the use of treated or potable water obtained from **Utilities** to irrigate or water any lawn, grass, or turf areas, including **regionally adapted species**. **Lawn watering** shall not mean **food production, non-lawn landscape, trees**, or watering with **well or raw water**.

**Local street** shall mean a low capacity road that is not a collector or arterial street. A **local street** can be a private or public right-of-way.

**Medical hardship** shall mean an exceptional hardship imposed upon an individual residential customer because of medical reasons by the restrictions set forth in the **WSAP**.
Misting device shall mean an evaporative cooling system, forcing water through small nozzles to create a fine mist or fog outdoors.

Multifamily shall mean residential premises that have more than two units and shall include sprinkler only taps that are used solely for irrigation on these premises.

Other landscape shall mean the use of treated or potable water obtained from Utilities to irrigate any flowers, shrubs, or other landscape plantings or plants. Other landscape shall not mean food production, lawn or tree, or watering with well or raw water.

Northern Water shall mean the Northern Colorado Water Conservancy District.

Platte River shall mean the Platte River Power Authority.

Poudre River shall mean Cache la Poudre River.

Recreation water toy shall mean an outdoor toy used on a private premise that requires water to operate and typically uses continuous water from a hose.

Regionally adapted species shall mean plants originally native to Colorado or other regions of the world that are acclimated to average temperatures and precipitation found in Fort Collins and are able to survive with little-to-no supplemental irrigation required following establishment.

Religious objection shall mean an objection to the specific application of the requirements of the WSAP due to a conflicting religious belief that precludes watering on an assigned day.

Residential shall mean a single-family or duplex residential premise.

Residential vehicle washing shall mean washing a vehicle on a residential premise in compliance with any applicable stormwater regulations and City Code Section 26-498.

Splash park shall mean an interactive water structure in a public space intended for public use and play and managed in accordance with applicable water quality requirements.

Spraying impervious surfaces shall mean rinsing, washing, or spraying with water or steam an impervious interior or exterior surface, including, but not limited to, surfaces such as garage floors, siding, windows, sidewalks, driveways, or patios, that will discharge flows outdoors in accordance with any applicable stormwater regulations and City Code Section 26-498.

Sprinkler shall mean an automated or manual system or a piece of equipment added to a hose that is used to spray water into the air so that droplets fall to the ground, including micro-sprays.

Sprinkler system maintenance shall mean the operation of a sprinkler system to the extent reasonably necessary for repair or maintenance, as long as a person is on site all times and testing is limited to verifying proper operation and identifying problems.

Tree shall mean a woody plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches elevated from the ground.

Utilities shall mean Fort Collins Utilities, which is owned and operated by the City of Fort Collins, a home rule municipality.

Water feature shall mean a device that creates a waterfall or fountain intended only for aesthetic purposes. Water feature shall not mean a water feature with a pond or basin.
that performs a function essential to the support of fish life in that pond or basin or a
*water feature* in a *swimming pool* or a *splash park*.

**Windy Gap** shall mean the Windy Gap Project, owned by **Northern Water**.

**Well or raw water** shall mean water from a well or other untreated (raw) water source,
such as a well, ditch, or reservoir.

**WSAP** shall mean this *Water Shortage Action Plan* under City Code Section 26-167(a).

**WEP** shall mean *Water Efficiency Plan*, a plan adopted by the City Council to address
long-term water conservation and efficiency planning, administered by **Utilities’ Water
Conservation Division**.

**WRD** shall mean **Utilities’** Water Resources Division.
Chapter 1 Water Restrictions

The Water Shortage Action Plan (WSAP), previously known as the Water Supply Shortage Response Plan, establishes conditions and restrictions to manage Utilities water supply in the event of projected shortages as established by City Code Section 26-167(a).

A water shortage occurs when the projected water supply is less than the anticipated water demand, with consideration of water reserves in storage or other criteria, as defined by the Water Supply and Demand Management Policy. The following events, or combination of events, are examples that could cause a water shortage:

- Drought
- Water quality issues, such as contamination or fire
- Infrastructure issues, such as pipeline or water treatment facility issues

Given the variability in water shortage causes and impacts, a water shortage action plan requires an analytical approach that allows for flexibility to address the given shortage, as well as projected shortages that may be anticipated. The WSAP establishes flexible options with guidance and transparency.

1.1 Guiding Principles

An effective response to water shortage requires a suite of strategies and tactics – no single water restriction will provide the response needed for most water shortages. The following guiding principles, not listed in order of priority or importance, will be followed as possible during a shortage.

Restrict less-essential uses first and avoid restrictions on more essential uses.

- Minimize restrictions on indoor water use for commercial and residential customers and uses that preserve health and safety.

Minimize adverse economic impacts.

- Minimize impacts to water-based businesses.
- Work with stakeholder businesses, such as those in the landscape industry.

Protect public and community activities.

- Minimize impacts to resources such as City parks, heavily used landscapes, and other public and community resources.
- Preserve public and community pools and splash parks during less severe water shortages.

Implement extensive public information and media relations program.

- Inform customers and stakeholders early and update regularly.
- Maintain transparency and trust through accurate and consistent messaging and communication.
- Leverage community partnerships for information dissemination.
Avoid irretrievable loss of natural vegetation.

- Minimize impacts to food production, such as vegetable gardens and trees, and perennial landscapes.
- Promote alternative, water-efficient irrigation methods, such as drip or hand-watering.

Explore alternative water supply options.

- Evaluate options to potentially increase water supplies and pursue when necessary and/or cost-effective relative to demand measures.

Collaborate regionally and with other water service providers.

- Involve adjacent water districts in water shortage action planning and implementation, where applicable.
- Communicate with adjacent water districts early and throughout water shortage.
- Engage in regional water shortage discussions, seeking regional collaboration and solutions when practical.

1.2 Action Summary Table

Pursuant to City Code Section 26-167(a) and this WSAP, the City Manager determines whether water use restrictions are necessary to manage the availability of water for use in the immediate future or within the planning horizon for managing the water utility’s water supply. If the City Manager makes this determination, then a water supply shortage action level and the associated water use restrictions as applicable, is declared, as set forth in the WSAP.

The following Action Summary Table summarizes the action levels and associated water use restrictions. In a declared water shortage, the table shall be used by the City and the City Manager when implementing this WSAP and when imposing restrictions on the use of water by water utility customers pursuant to City Code 26-167(a).

There are three types of demand reduction strategies in the Action Summary Table on page 11.

Voluntary indoor water use strategies encourage optional and additional water use reductions based on water-efficient best practices and will be promoted concurrently during any mandatory outdoor water use restrictions. In addition, the Water Shortage Watch Action Level involves voluntary restrictions, which are based on Level I mandatory actions or best practices and will promote awareness while staff is continuing to monitor the given situation. These actions may provide for water shortage mitigation and avoid or defer mandatory restrictions.

Mandatory outdoor water use restrictions are required water use reduction strategies that are subject to monitoring and enforcement.

Alternative demand reduction actions may include a unique combination of mandatory restrictions and/or voluntary water use reductions. This level should be enacted when other Action Levels outlined in the WSAP are not adequate or appropriate to address a
unique or extreme water shortage scenario. The declaration of Action Level IV, includes, but is not limited to, the following water shortage scenarios:

- Non-irrigation season water shortages
- Extreme water shortages projected in excess of 35%

Action Level IV includes the ability to select restrictions and exceptions by permit, as outlined in the other Action Level's outlined in the Action Summary Table and may require indoor rationing or other restrictions to address given water shortage projections when outdoor or other non-essential restrictions alone will not suffice or meet the needs of the situation.

**Temporary Rate Increase**

Rate increases apply to the rate schedule in place at that time of Action Levels II and III. Rate increase for Level IV, or otherwise undefined in the Action Summary Table, may require approval from Council. The WSAP is effective on the date specified in the published declaration; however, rate increase may go into effect later, depending on a customer’s bill cycle to avoid applying rate increase to water consumed prior to the water shortage’s effective date. The following rates would be increased in accordance with the Action Summary Table:

- **City Code Section 26-127. Schedule B, metered rates:**
  - Commercial and residential (single-family, duplex, and multifamily) volumetric rates (excludes base and unit rates and participants of the Income Qualified Assistance Program receiving a discount for base and Tier 1 volumetric charges).

- **City Code Section 26-129. (b)(4) Schedule D, miscellaneous fees and charges:**
  - Fire hydrant and water filling station volumetric rates.
# ACTION SUMMARY TABLE
Fort Collins Utilities Water Shortage Action Plan

<table>
<thead>
<tr>
<th>Action Level</th>
<th>Water Shortage Watch - Voluntary</th>
<th>I - Low</th>
<th>II - Medium</th>
<th>III - High</th>
<th>IV - Alternative</th>
</tr>
</thead>
<tbody>
<tr>
<td>% Projected Water Shortage</td>
<td>Potential shortage</td>
<td>1-15%</td>
<td>16-25%</td>
<td>26-35%</td>
<td>Unique and extreme water shortages not adequately or appropriately addressed by Water Shortage Watch or Levels I-III</td>
</tr>
</tbody>
</table>

## Indoor Use Reductions

<table>
<thead>
<tr>
<th>Action</th>
<th>Voluntary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawn Watering</td>
<td>Target: 0.62 gallons/sq. ft. or 1” per week</td>
</tr>
<tr>
<td>Non-Watering Hours</td>
<td>No watering between 10 a.m. and 6 p.m.</td>
</tr>
<tr>
<td>Number of Watering Days per Week (even and odd refers to the last digit of a street address)</td>
<td>Limit to two days per week</td>
</tr>
</tbody>
</table>

## Outdoor Use Reductions

<table>
<thead>
<tr>
<th>Landscape Water Use</th>
<th>Residential (even) - Th &amp; Sun Residential (odd) - Wed &amp; Sat Multifamily &amp; Commercial - Tue &amp; Fri.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Watering Hours</td>
<td>No watering between 10 a.m. and 6 p.m.</td>
</tr>
<tr>
<td>Number of Watering Days per Week (even and odd refers to the last digit of a street address)</td>
<td>Residential (even) - Sun Residential (odd) - Sat Multifamily &amp; Commercial – Fri.</td>
</tr>
</tbody>
</table>

Indoor rationing to address extreme water shortages (>35%) and select restriction(s) listed in Action Levels I-II to address other unique scenarios

Not allowed
<table>
<thead>
<tr>
<th><strong>Sprinkler System Maintenance</strong></th>
<th>Minimize test run times per zone</th>
<th>Minimize test run times per zone</th>
<th>Minimize test run times per zone</th>
<th>Not allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trees</strong></td>
<td>Limit watering to two days per week and not between 10 a.m. and 6 p.m., and by hand, drip system or deep root fork or needle at any time</td>
<td>May be watered by sprinkler on Residential (even) - Th &amp; Sun, Residential (odd) - Wed &amp; Sat, Multifamily &amp; Commercial - Tue &amp; Fri. any day, other than between 10 a.m. and 6 p.m., and by hand, drip system or deep root fork or needle at any time</td>
<td>May be watered by sprinkler on Residential (even) - Sun, Residential (odd) - Sat, Multifamily &amp; Commercial – Fri., other than between 10 a.m. and 6 p.m. May be watered only by hand, drip system or deep root fork or needle at any time</td>
<td>May be watered only by hand, drip system or deep root fork or needle at any time</td>
</tr>
<tr>
<td><strong>Food Production</strong></td>
<td>Limit watering to two days per week and not between 10 a.m. and 6 p.m., and by hand or by drip system at any time</td>
<td>May be watered by sprinkler on Residential (even) - Th &amp; Sun, Residential (odd) - Wed &amp; Sat, Multifamily &amp; Commercial - Tue &amp; Fri., other than between 10 a.m. and 6 p.m., and by hand or by drip system at any time</td>
<td>May be watered by sprinkler on Residential (even) - Sun, Residential (odd) - Sat, Multifamily &amp; Commercial – Fri., other than between 10 a.m. and 6 p.m. May be watered only by hand, or drip system at any time</td>
<td>May be watered only by hand, or drip system at any time</td>
</tr>
</tbody>
</table>

Indoor rationing to address extreme water shortages (> 35%) and select restriction(s) listed in Action Levels I-II to address other unique scenarios.
<table>
<thead>
<tr>
<th>Category</th>
<th>Other Landscapes</th>
<th>Residential Vehicle Washing</th>
<th>City of Fort Collins Fleet Vehicle Washing</th>
<th>Dealership Vehicle Washing</th>
<th>Spraying Impervious Surfaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit watering to two days per week and not between 10 a.m. and 6 p.m., and by hand or by drip system at any time</td>
<td>May be watered by sprinkler on Residential (even) - Th &amp; Sun Residential (odd) - Wed &amp; Sat multifamily &amp; Commercial - Tue &amp; Fri. any day, other than between 10 a.m. and 6 p.m., and by hand or by drip system at anytime</td>
<td>Not allowed from May-August. Must use shutoff nozzle</td>
<td>Not allowed unless approved by the City Manager for health or safety reasons</td>
<td>Upon Sale</td>
<td>Not allowed, except for essential power washing. Whenever possible, dry methods must be deployed first.</td>
</tr>
<tr>
<td>Residential Vehicle Washing</td>
<td>Must use shutoff nozzle</td>
<td>Must use shutoff nozzle</td>
<td>Once per week or as approved by the City Manager for health or safety reasons</td>
<td>Upon Sale</td>
<td>Not allowed, except for essential power washing. Whenever possible, dry methods must be deployed first.</td>
</tr>
<tr>
<td>City of Fort Collins Fleet Vehicle Washing</td>
<td>As needed</td>
<td></td>
<td>Not allowed unless approved by the City Manager for health or safety reasons</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dealership Vehicle Washing</td>
<td>As needed</td>
<td>Once per week</td>
<td>Upon Sale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spraying Impervious Surfaces</td>
<td>Whenever possible deploy dry methods first</td>
<td>Not allowed, except for essential power washing. Whenever possible, dry methods must be deployed first.</td>
<td>Not allowed, except for essential power washing. Whenever possible, dry methods must be deployed first.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity</td>
<td>Dust Control Measures for Dust Generating Activities</td>
<td>Street Sweeping</td>
<td>Hydrant Flushing and Testing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dust Control Measures for Dust Generating Activities</td>
<td>Whenever possible use alternative (non-water) dust control measures, as defined by the City's Dust Prevention and Control Manual</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Not allowed, except if no alternative (non-water) dust control measures exist, as defined by the City's Dust Prevention and Control Manual</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Sweeping</td>
<td>No more than normal operating schedule and essential street sweeping. Whenever possible, deploy dry methods first</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td>Local Street sweeping shall be limited to essential street sweeping only. Whenever possible, dry methods must be deployed first</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Local Street sweeping shall be limited to essential street sweeping only. Whenever possible, dry methods must be deployed first</td>
<td>Arterial and Collector Street Sweeping will be reduced to 1x a month and all other sweeping restricted to essential street sweeping. Whenever possible, dry methods must be deployed first</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hydrant Flushing and Testing</td>
<td>No more than normal operating schedule and critical situations</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td>Limited to critical situations as approved by Utilities' Executive Director</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Indoor rationing to address extreme water shortages (> 35%) and select restriction(s) listed in Action Levels I-II to address other unique scenarios**
<table>
<thead>
<tr>
<th>Water Features</th>
<th>Turn off water feature</th>
<th>Unrestricted - consider water shortage watch measure</th>
<th>Not allowed</th>
<th>Not allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Splash Parks</td>
<td>Operate system to maximize water reuse while maintaining water quality</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Community Outdoor Swimming Pools</td>
<td>Use pool cover and backwash system if exists</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Unrestricted, if filled before date restrictions were implemented. No filling of empty pools</td>
</tr>
<tr>
<td>Individual Outdoor Swimming Pools and Recreational Water Toys</td>
<td>Limit use by setting a spigot timer on the hose</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Toys not allowed. Pools are unrestricted, if filled before date restrictions were implemented. No filling of empty pools</td>
<td>Toys not allowed. Pools are unrestricted, if filled before date restrictions were implemented. No filling of empty pools</td>
</tr>
<tr>
<td>Misting Devices</td>
<td>Limit use to only when temperatures are extreme and misted areas are occupied</td>
<td>Unrestricted - consider water shortage watch measure</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Exceptions by Permit</td>
<td>Watering Exceptions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>---------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Lawn Installation (sod and seed)</td>
<td>Water any time of day and any day of the week for a period of time, as defined by the approved permit. Multifamily and Commercial can request a temporary certificate of occupancy.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Hardship</td>
<td>Not applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Hardship</td>
<td>Water on two selected days per week. No watering on Monday and between the hours of 10 a.m. and 6 p.m.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical Hardship</td>
<td>Water on one selected day per week. No watering on Monday thru Thursday and between the hours of 10 a.m. and 6 p.m.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious Objection</td>
<td>Water on two selected days. No watering on Monday and between the hours of 10 a.m. and 6 p.m.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious Objection</td>
<td>Water on one selected day. No watering Monday thru Thursday and between the hours of 10 a.m. and 6 p.m.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious Objection</td>
<td>No exceptions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious Objection</td>
<td>No exceptions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious Objection</td>
<td>No exceptions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inactive Areas with Turf Areas of Four Acres or More and City Parks</td>
<td>Max of 1.00&quot; or 0.62 gallons per sq. ft per week. Water 3 days/week. No watering between the hours of 10 a.m. and 6 p.m.</td>
<td>Max of 0.75&quot; or 0.47 gallons per sq. ft. per week. Water 3 days/week. No watering between the hours of 10 a.m. and 6 p.m.</td>
<td>No exceptions</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>Active Area City and Community Athletic/Playing Fields</td>
<td>Max of 1.25&quot; or 0.78 gallons per sq. ft. per week. May water any day, according to permit; no watering between the hours of 10 a.m. and 6 p.m.</td>
<td>Max of 1.0&quot; or 0.47 gallons per sq. ft. per week. May water any day, according to permit; no watering between the hours of 10 a.m. and 6 p.m.</td>
<td>No exceptions</td>
<td></td>
</tr>
<tr>
<td>Well or Raw Water</td>
<td>Registration and sign provided by Utilities required</td>
<td>Registration and sign provided by Utilities required</td>
<td>Registration and sign provided by Utilities required</td>
<td></td>
</tr>
<tr>
<td><strong>Enforcement</strong></td>
<td><strong>Residential Fines per Violation</strong></td>
<td>Not applicable</td>
<td>$50-1,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Non-Residential Fines per Violation</strong></td>
<td>$250-1,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Water Rate Adjustments</strong></td>
<td><strong>No adjustment</strong></td>
<td><strong>20% increase to volumetric charges only, excluding IQAP tier 1</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Non-Residential Fines per Violation</strong></td>
<td>$500-1,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Water Rate Adjustments</strong></td>
<td><strong>30% increase to volumetric charges only, excluding IQAP tier 1</strong></td>
<td>Rate increases will be requested by City Ordinance, as necessary</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Additional requirements during Action Levels I-IV:**

- Watering within 48 hours of a rain event is prohibited.
- Hand watering requires use of a shut off nozzle.
- Drip or deep fork/needle irrigation requires use of a spigot or other automatic irrigation system timer.
- Permits must be displayed so they are visible from the street or sidewalk.

**Recommendation:** Utilize cycle soak watering methods by breaking up watering in each irrigation zone into 2 cycles, with at least 60 min. in between to allow water to soak into the ground.
1.3 Declaring a Water Shortage
Prior to declaring a water shortage, the following steps should occur:

1. **Water Shortage Indicators** (Section 1.4) and other necessary information is analyzed by Utilities and presented to the Action Committee (Section 1.6).
2. The Action Committee develops a recommendation with supporting data, description of the evaluation, and the proposed response.
   a. If Action Level IV is recommended, additional information should be provided to the City Manager that includes a description of which restriction(s) are recommended from the Action Summary Table (Section 1.2) and why; or in the case of an extreme water shortage, which types of indoor water uses will be rationed and to what degree or extent.
3. The recommendation is presented to the City Manager.
4. The City Manager considers the Action Committee’s recommendation to determine whether to declare a water shortage and, if so, which action level to select.
   a. If Action Level IV is selected, the City Manager must include a description in the declaration of which restriction(s) are selected from the Action Summary Table; or in the case of an extreme water shortage, which types of indoor water uses will be rationed and to what degree or extent.

When possible, City Council will be informed in advance of the water shortage declaration. A water shortage declaration may need to be made quickly, in order to minimize the severity of the shortage. In these instances, City Council will be notified as quickly as possible following the water shortage declaration.

After the declaration of a water shortage, the City Manager shall issue a declaration and order pursuant to City Code 26-167(a), in conjunction with the City Attorney’s Office and City Clerk.

Moving Between Levels and Returning to Normal Conditions
The Water Shortage Indicators will continue to be monitored throughout the given water shortage. It may be necessary to increase the action level to either achieve greater demand reduction or reduce the action level, but not yet return to normal conditions. Moving between action levels or returning to normal conditions requires a declaration by the City Manager, using the process defined above, pursuant to City Code 26-167(a).

1.4 Water Shortage Indicators
Several indicators are used to monitor water supplies and demands, evaluate the severity of a potential water shortage, including length and projected duration, and ultimately guide the appropriate response. The indicator list below is not comprehensive nor representative of all possible scenarios; additional relevant information will be utilized if available.

- CBT water supply availability. Utilities owns units in the Colorado-Big Thompson (CBT) project, which are subject to a variable annual quota that determines how much water each unit will yield. Northern Water operates the CBT project. Often, a low quota is first declared in November, with an updated, additional quota provided in early April. There are rare times when additional quota is provided in mid-summer,
but typically the total annual quota ranges between 50 and 100% (e.g., 100% quota = 1 acre-foot per unit).

The CBT project provides supplemental water supplies for the region. The quota is set high when other regional water supplies are expected to be below normal and the quota is set low when regional water supplies are plentiful. However, when storage in the CBT system is low, the quota may become what is known as “supply-limited”. A supply-limited quota is a strong indicator to anticipate a reduced CBT supply in the current or following season, especially if the snowpack is below average. A predictor of a supply-limited quota is the volume of unallocated project reserves in the CBT project.

- **Windy Gap water availability.** Through an agreement between Utilities and multiple parties called the "Reuse Plan," Utilities usually receives Windy Gap water each year through the CBT system. The presence or lack of Windy Gap water supplies in the CBT system, or the ability to create Windy Gap in-lieu of water from CBT supplies, can make a significant difference in the volume of supplies available via Horsetooth Reservoir, therefore staff monitors these levels closely.

- **Poudre River water availability.** Poudre River water supplies are estimated based on either:
  - A projected date when each of Utilities’ Poudre River water rights will fall out of priority.
  - The volume that is expected to be diverted by Utilities given water quality and infrastructure constraints.

Estimates are informed by regional streamflow projections that consider snowpack, weather forecasts and other factors.

- **Joe Wright Reservoir storage levels and Michigan Ditch flows.** Another source of Utilities’ supply is the Joe Wright Reservoir-Michigan Ditch system. The amount of water diverted by the Michigan Ditch is dependent on the water supplies in the Michigan River, which is not a tributary of the Poudre River. A reduction of Michigan Ditch diversions and/or Joe Wright Reservoir not filling would be strong indicators or a need to monitor the supply and demand balance closely and to anticipate reduced supplies in the given or following year.

- **Snowpack surveys and streamflow estimates for the Poudre River and Colorado River basins.** Both the Poudre River and the CBT system rely on snowpack to fill reservoirs and rivers, which ultimately deliver water to our community when the snow melts. The spring runoff (timing and volume of melting snowpack), in conjunction with available storage, influences how much water will be available to treat each year. Data on snowpack and streamflow comes from:
  - National Resources Conservation Services Snotel program readings for Joe Wright and Deadman Hill sites provide information about winter snowpack in the Poudre River basin.¹

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¹ This information can be accessed here: [wcc.sc.egov.usda.gov/nwcc/site?sitenum=551](http://wcc.sc.egov.usda.gov/nwcc/site?sitenum=551); [wcc.sc.egov.usda.gov/nwcc/site?sitenum=438](http://wcc.sc.egov.usda.gov/nwcc/site?sitenum=438)
The State of Colorado Division of Water Resources provides monthly snow course data in the Poudre River basin, which includes information about snow conditions at a variety of elevations.  
Northern Water provides snowpack and streamflow projections for the Colorado River and Poudre River basins.

- **Weather Forecasts and Drought Monitors.** Short- and long-term national and regional weather predictors and drought condition monitoring information are used to anticipate if we may expect lower than average supplies and/or higher than average demands. Several governmental and educational online resources are monitored to assess these conditions, including drought monitors, seasonal drought outlooks and monthly and seasonal climate outlooks.

- **Water quality issues.** Water quality can impact the ability to treat and therefore make use of Utilities’ water supplies. These include short-term issues like vehicle crashes in the Poudre River and longer-term issues like algal blooms in Horsetooth. Utilities monitors both water sources for any potential impacts.

- **Natural disasters.** Wildfires or floods in the Poudre River basins, other source watersheds (e.g., Colorado or Michigan River basins), or within the service area can impact water quantity, water quality and/or water infrastructure, potentially for multiple years.

- **Infrastructure failures.** The presence of an infrastructure failure event can suddenly cause a supply shortage if it impacts Utilities’ ability to divert raw water supplies to the water treatment plant or impacts the distribution system and the ability to deliver water to customers.

- **Infrastructure maintenance.** Planned maintenance that affects various infrastructure that stores and delivers raw or treated water, like maintenance of the Horsetooth outlet or the Poudre River pipelines, can cause temporary shortages of supplies.

- **Administrative and governmental changes.** There may be changes in water rights administration, legislation passed by the State of Colorado, policies from Northern Water, emergency declarations by the governor, federal Colorado River issues, or other changes that could adversely impact Utilities’ supplies in both the Poudre River and/or Horsetooth.

- **Regional impacts and messaging.** Although Utilities may have adequate water supplies that do not warrant mandatory restrictions, other adjacent and local water providers (e.g., other treated water providers in the Growth Management Area) might require them. Consideration should be given to potentially aligning restriction levels and messaging with these water providers.

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2 This information is developed using hand-measured snow course reading to provide a local condition. It can be obtained from the State of Colorado Division of Water Resources.

3 This information can be accessed here: northernwater.org/WaterProjects/WaterData.aspx
**Water Supply Operations Model**

WRD staff maintain a water supply operations model that uses many of the above data sources to estimate water supplies and demands. The model provides estimates for a spectrum of scenarios from worst case (high demand and low supply) to best case (low demand and high supply). The following figure summarizes some of the information from the operations model.

- Water supply estimates are based on projected yields available to Utilities from the Poudre River (including Michigan Ditch/Joe Wright Reservoir system), CBT and Windy Gap water supplies, as described above.
- Utilities’ service area estimates average water demand (based on a 10-year rolling average of past daily demands), which are adjusted as needed for expected population growth. Also based on previous years water use data, potential high (dry-year) and low (wet-year) demands are estimated.
- The model also reflects obligations to other entities (e.g., East Larimer County Water District, Fort Collins-Loveland Water District, West Fort Collins Water District, etc.).
- Short- and long-term weather and climate factors influence the estimates of both supplies and demands.

**City of Fort Collins Utilities**

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**ASSUMPTIONS**
- Values look at remaining demands and supplies through the end of the Water Year (Oct 31)

**DEMANDS**
- Average demand is projected demand
- Low demand is projected average demand reduced by 10%
- High demand applies a monthly worse case factor to projected average demand

**SUPPLIES**
- Poudre supplies are typically limited by preferred water quality blending and not by water rights availability
- Assumes 5 MGD at PVP (Jun 1 - Aug 31) and 10 MGD at Poudre Pipeline 90% of the time
- Horsetooth Reservoir
  - Horsetooth Supplies include CST, NPIC MU & Windy Gap
  - Low CST supply: 65% quota, 2.4 NPIC MU allocation/share
  - Avg. CST supply: 75% quota, 2.7 NPIC MU allocation/share
  - High CST supply: 80% quota, 3.0 NPIC MU allocation/share
  - A 0 AF Joe Wright-CBT exchange with NPIC is included
  - All remaining Horsetooth raw water obligations have been deducted

**Horsetooth Carryover Objective**
- Amount from this year's Horsetooth supplies to carryover for next year
- Max amount allowable is 4,190 AF before 10% shrink

**Remainin Water Demand and Supply**

*from Jan 01 - Oct 31, 2020*

- Demand (AF) vs. Supply (AF)
- Water Supply Estimates

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**NOTES:**
MDG = million gallons per day; PVP = Pleasant Valley Pipeline; CST = Colorado-Big Thompson Project; NPIC = North Poudre Irrigation Company; MU = Multiple Use (NPIC allocation of CST water, measured in acre-feet per share); AF = acre-feet
1.5 Other Response Strategies
The following are potential actions that can be considered, if available and cost-effective, to improve existing supplies for the current water year and improve storage reserves for the next water year. The actions implemented will depend upon the nature and severity of the supply shortage and should be considered complementary to a demand reduction response. The cost-effectiveness of each short-term supply strategy should be evaluated prior to implementing, as acquiring additional supplies can have significant costs.

- Seek and implement potential rentals, trades or other ways to increase supplies from others (particularly CBT supplies).
- Cease all non-binding rentals on types of water that can be used by Utilities.
- Manage Utilities’ Poudre River water rights portfolio so that maximum benefit can be attained from each water right.
- Communicate with Utilities’ Water Treatment Facility staff regarding the availability of the Horsetooth and Poudre River sources so that operational adjustments can be made to treat less than optimal blends.
- Request that Utilities’ Water Treatment Facility staff use its UV treatment system to increase supply efficiencies.
- Work with other City departments (e.g., Parks) to maximize available treated water supplies.
- Consider any potential changes to water delivery agreements that could minimize Utilities’ obligations under drought conditions.

1.6 Responding to a Water Shortage

Implementation
The following table outlines roles and responsibilities during a shortage. Additional roles and responsibilities will be specified by the Water Shortage Action Committee for each water shortage, in order to accurately address the given situation and appropriately address implementation needs.

<table>
<thead>
<tr>
<th>Department</th>
<th>Roles and Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilities – Water Conservation</td>
<td>Administers the WSAP, including but not limited to:</td>
</tr>
<tr>
<td></td>
<td>• Updating staff and the public.</td>
</tr>
<tr>
<td></td>
<td>• Being source of information on restrictions, action levels, enforcement and communication.</td>
</tr>
<tr>
<td></td>
<td>• Organizing the Action Committee.</td>
</tr>
<tr>
<td></td>
<td>• Evaluating demand trends in coordination with Water Resources.</td>
</tr>
<tr>
<td>Utilities – Water Resources</td>
<td>• Evaluates and monitors water supply and demand management efforts and the source of all information regarding the status of the shortage.</td>
</tr>
<tr>
<td></td>
<td>• Coordinates closely with Water Conservation.</td>
</tr>
<tr>
<td>Neighborhood Services – Code Compliance</td>
<td>Assists with enforcement during mandatory water use restrictions.</td>
</tr>
</tbody>
</table>
### Utilities – Finance
Monitors and reports on changes in revenue.

### Utilities – Communications and Marketing
Develops, implements, and responds to water shortage communications, materials and messaging following guidance provided in Appendix A.

### Utilities – Community Engagement
- Assists with development of engagement planning and implementation.

### Action Committee
- Meets annually, before and during a declared water shortage.
- Evaluates water shortage indicators and other pertinent information necessary for determining a water shortage.
- Develops a water shortage declaration recommendation to the City Manager, including the proposed action level.

### Monitoring
It is important to measure the success of the WSAP in achieving the supply and demand goals for the given water shortage. WRD has the primary responsibility for monitoring the ongoing status of the water shortage and comparing demand scenarios described below. Water Conservation has the primary responsibility for monitory public responses to restrictions, which can be implemented during public engagement activities (see Appendix A for more details). This monitoring may use both scientific analysis and anecdotal information and may include:
- Comparison to actual water use with target, average and expected use (without supply shortage awareness).
- Monitoring public response to water shortage restrictions (voluntary or mandatory) through informal feedback, focus groups, surveys or other appropriate methods.

### Water Shortage Committees
Annually and when preparing for and during a water shortage, the Action Committee shall convene. Prior to and during a water shortage the Stakeholder Committee shall also meet, as needed. Representation on both committees shall include the following service areas and departments:

<table>
<thead>
<tr>
<th>Action Committee</th>
<th>Utilities</th>
<th>Executive Director</th>
</tr>
</thead>
</table>

**ACTION COMMITTEE**
Critical to annual evaluations, daily activities, and action plan management and leadership. The Action Committee should meet as needed, and at a minimum, annually (preferably directly after the April CBT quota is issued by Northern Water) to evaluate the raw water model and other indicators and determine the supply outlook for the remainder of the year. Prior to and during a water shortage, the primary group may meet more frequently. Depending on the water shortage scenario, representation on the Action Committee may vary from year to year and differ from the list below:
Chapter 2 Permits

Permits are available to allow for exceptions to assigned watering days and frequencies only, as described in this chapter.

2.1 Types of Permits
Permits may be issued for individuals or businesses unable to comply with watering restrictions for the following conditions:

- New seed and sod
- Medical/physical hardship
- Religious objection
- Large (four acres or greater) and City parks inactive areas
- City and Community active areas
- Raw or well water use
New Seed or Sod Permit
This permit is to allow additional watering for new seed and sod installations. A complete permit application is required, along with a receipt for seed or sod, seed or sod species type, and proof of soil amendment and amount in cubic yards. Regionally adaptive species may allow for longer or different watering exceptions compared to Kentucky Blue Grass. When appropriate, a permit will be issued as outlined below:

- **Action Level I**: A permit will allow for watering any time of day and any day of the week for a period, defined by the approved permit, based on the species’ establishment needs.

- **Action Level II**: No seed or sod planting May to August. From September to April, a permit will allow for watering any time of day and any day of the week for a period, defined by the approved permit, based on the species’ establishment needs.

- **Action Level III**: No permits will be issued.

Multifamily and commercial developments can request a temporary certificate of occupancy to allow occupancy while delaying the installation of a landscape. The entire landscape cannot be watered unrestricted with this permit, only the areas with new seed or sod. Other areas must be watered according to the water restrictions specified by the action level in effect. Permit holders will be encouraged to water during the cooler times of day after the first week.

Medical/Physical Hardship
This permit is to establish an alternate watering schedule for customers with short-term or long-term medical or physical hardship to one or more days to which they are otherwise assigned. A complete permit application is required. Utilities reserves the right to verify the medical or physical hardship for which the permit is being issued.

- **Action Level I**: Watering on two specified days per week. No watering Monday or between 10 a.m. and 6 p.m.

- **Action Level II**: Watering on one specified day per week. No watering Monday through Thursday and between the hours of 10 a.m. and 6 p.m.

- **Action Level III**: No permits will be issued.

Religious Objection Permit
This permit is to establish an alternate watering schedule for customers with religious objections to one or more days to which they are otherwise assigned. A complete permit application is required. Utilities reserves the right to verify the religious objection for which the permit is being issued.

- **Action Level I**: Watering on two specified days per week. No watering Monday or between 10 a.m. and 6 p.m.

- **Action Level II**: Watering on one specified day per week. No watering Monday through Thursday or between 10 a.m. and 6 p.m.

- **Action Level III**: No permits will be issued.
Large (Four Acres or Greater) and City Parks Inactive Areas Permit
This permit is to establish a custom watering schedule for privately-owned areas with four acres or more or City parks of any size, that use treated water, excluding areas with active athletic/playing fields. Documentation that the existing sprinkler system cannot water the area within the designated watering days and watering limits are necessary to be eligible for this permit. A complete permit application is required. Utilities reserves the right to inspect the controller(s) and schedules associated with the permit to verify that the setting matches the submitted application. Averaging the amount of water applied throughout the area, is allowed.4

**Action Level I:** Average maximum of 1.00 inches or 0.62 gallons per square-foot per week. Watering may occur on three specified days per week. No watering between the hours of 10 a.m. and 6 p.m.

**Action Level II:** Average maximum of 0.75 inches or 0.47 gallons per square-foot per week. Watering may occur on three specified days per week. No watering between the hours of 10 a.m. and 6 p.m.

**Action Level III:** No permits will be issued.

City and Community Active Areas Permit
This permit is to establish a custom watering schedule for City parks and areas owned by other entities that consist of playing and athletic fields that use treated water. Documentation that the existing sprinkler system cannot water the area within the designated watering days and watering limits are necessary to be eligible for this permit. These areas are subject to less restriction in order to protect more actively used landscapes and maintain safety for those using the areas. A complete permit application is required. Utilities reserves the right to inspect the controller(s) and schedules associated with the permit to verify that the setting matches the submitted application. Averaging the water use application throughout the area is allowed (see footnote 4, for more details).

**Action Level I:** Average maximum of 1.25 inches or 0.78 gallons per square-foot per week. May water any day, as defined within a permit; no watering between the hours of 10 a.m. and 6 p.m.

**Action Level II:** Average maximum of 1.0 inches or 0.47 gallons per square-foot per week. May water any day, as defined within a permit; no watering between the hours of 10 a.m. and 6 p.m.

**Action Level III:** No permits will be issued.

Well or Raw Water Sources
Customers who use a well or raw water source for lawn watering or other irrigation are not restricted because this water is not provided by Utilities and is not subject to the WSAP. Customers using a well or raw water for irrigation are required to register their address so that if a complaint is received, it can be disregarded. Those customers must post a sign that is visible from the street. Free signs will be supplied by Utilities.

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4 Averaging occurs by determining the total amount of water applied to the property each week and dividing it by the area of property subject to the permit. The total water applied per square foot must be equal or less than the maximum application specified for the applicable action level, per the permit. This allows some areas of the property subject to the permit to receive more water and other areas less water than the maximum application.
2.2 Permit Application and Process

Customers may obtain a permit application or renewal form by downloading the application form from Utilities’ website or by requesting one by mail or email. Complete applications must be submitted to Utilities.

Utilities staff must use reasonable discretion when reviewing permit applications for approval or applying terms and conditions to approve permits. Utilities staff must consider the impacts of the permitted activity on Utilities’ water supply or water system operations. Utilities staff may conduct investigations in the review of the permit application.

When a permit application meets the eligibility requirements, a permit will be granted and issued by Utilities’ Executive Director. Decisions on permit applications will be determined within five business days of receipt, unless the permit is incomplete or requires additional investigation. A determination of a permit will be provided in writing to the applicant with an explanation of the basis of approval or denial. Permits may contain terms and conditions, as determined by Utilities staff, to allow the minimum watering necessary to carry out the intent of the permit.

Properties with approved permits remain subject to enforcement of restrictions outside of the terms of the permit.

At Utilities’ discretion, some permits may be renewed during subsequent water shortages. A request to renew a previously approved permit must be made to and approved by Utilities on a renewal form provided by Utilities. The applicant must confirm that the previously approved conditions and permit terms will be adhered to. Renewals are subject to staff review and approval and may include additional requirements or amendments to the previously approved permit so that the renewed permit conforms to this WSAP and the water shortage declaration at that time.

Not all permits can be renewed. New sod and seed permits shall not be available for renewal. Other permits shall not be renewed if there have been changes to properties’ landscape, irrigation, or other circumstances. Other permits shall not be renewed if they are inconsistent with the current WSAP. Where a permit cannot be renewed, customers can still submit applications for new permits under the current WSAP.

Permit Approval Process – New and Renewal Applications

1. All permit applications are submitted to Utilities for an initial review to determine if the application is complete. If additional information is required, staff will contact the applicant to obtain missing information.

2. Staff reviews application and presents a recommendation to Utilities’ Executive Director or his/her designee(s).

3. If a permit is granted by Utilities’ Executive Director or his/her designee(s), a permit number is assigned. If a permit is denied by Utilities’ Executive Director or his/her designee(s), then an explanation of the basis will be provided to the applicant.

4. Staff notifies customer and provides applicable water use information and signage.
5. If the level of restrictions is changed, communication will be made to all permit holders advising of the change and required changes to water use.

**Signage**
Upon permit approval, Utilities will provide a sign to be posted in a location that is visible from the street for the duration of the exemption. Signs should be returned to Utilities for reuse following the term of the permit or the conclusion of the water shortage.

**Permits and Changing Action Levels**
Permit holders will be notified if the Action Level changes during the term of their permit. Once notified, it is the responsibility of the customer to revise their watering schedule to meet the new requirements. New Sod and Seed permits are the exception; the terms of the permit are good until the expiration date listed on the permit.

**Appeals**
Final permit determinations may be appealed pursuant to City Code Section 26-53.

## Chapter 3 Enforcement
The enforcement and permitting functions for Utilities’ water restrictions are designed to ensure compliance with the WSAP, as well as City Code Section 26-166 (Prohibition of waste). Enforcement of restrictions, together with ongoing public education and outreach, are needed to achieve the goal of decreasing water demand, thus minimizing the need for greater water restriction action levels. It is vital to the success of the enforcement program that customers perceive fair enforcement of restrictions, while receiving the necessary information to successfully comply, along with permits for specific situations as noted in Chapter 2.

### 3.1 Need for Additional Resources
The implementation and enforcement of water use restrictions will likely require additional financial and personnel resources.

### 3.2 Fines for Violations
Compliance with the WSAP shall be subject to City Code Section 26-168 (Obligation to comply; penalties). Violations of the WSAP, including noncompliance with restrictions imposed during a declared water shortage or the terms of a permit issued hereunder, shall therefore be a civil infraction and shall be subject to the penalty provisions of Subsection 1-15(f) of City Code, except that, notwithstanding the provisions of Subsection 1-15(f), fines for violations of the WSAP shall be as follows:

<table>
<thead>
<tr>
<th>Water Shortage Watch - Voluntary</th>
<th>I - Low</th>
<th>II - Medium</th>
<th>III - High</th>
<th>IV - Alternative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Fines per Violation</td>
<td>Not applicable</td>
<td>$50-1,000</td>
<td>$100-1,000</td>
<td>$100-1,000</td>
</tr>
</tbody>
</table>
Each day during which a violation of any term of the WSAP or permit issued hereunder occurs or continues shall constitute a separate offense.

### 3.3 Enforcement Guidelines

#### Business and Residential Violations

The restrictions shall apply to Utilities residential and business water customers, whether within or outside of the City of Fort Collins. Premises within City of Fort Collins municipal limits that are served water by other water providers must comply with their water provider’s restrictions, if applicable. In the case of single-family and duplex dwellings, the Notice of Complaint, Warning, or Citation should be issued to the Utilities account holder. If the customer responsible for the violation is renting a residential property, it is possible that the property owner may also be responsible for allowing the tenant or others to use water in a manner in violation of the restrictions.

In the case of businesses and multi-family residential violations, the summons and complaint should be issued to the person Utilities account holder – either the property owner or the tenant, if renting. If the identity of that person is unknown, and/or to the owner of the business or the registered agent of the business is unknown, the information can be obtained from the Colorado Secretary of State website. The City Attorney’s Office can assist as necessary.

#### Methods of Enforcement

Utilities’ water conservation programs are based on an educational approach with proactive public outreach. Depending on the severity of the shortage and other factors, this approach may be continued with mandatory water restrictions, to engage and maintain the willing cooperation and support of customers.

Utilities’ goal of enforcement is to encourage all customers to help with conserving water during a shortage. The WSAP allows for citations to be issued following a warning. During mandatory levels, enforcement may be implemented using various methods, including the following:

- Complaint-based enforcement
- Active patrolling and violation identification by Utilities and Code Compliance
- Remote monitoring by Utilities, using advanced metering infrastructure

#### Educational Resources

Existing Water Conservation Division programs and services can be used to assist customer with compliance challenges:

- Sprinkler Audit Program – irrigation controller changes included
- WaterSmart Customer Portal – monitor water use
- Rebates – improve indoor and outdoor water use efficiency

<table>
<thead>
<tr>
<th>Non-Residential Fines per Violation</th>
<th>$250-1,000</th>
<th>$500-1,000</th>
<th>$500-1,000</th>
<th>$250-1,000</th>
</tr>
</thead>
</table>

Attachment: Ordinance No. 053, 2020 (9016 : SR 053 Water Shortage Action Plan)
• Xeriscape Incentive Program – convert high-water use landscapes to regionally adapted water-wise landscapes
• Landscape Water Budget Program – compares recommended water use to current water use to identify inefficiencies

Reporting Complaints
Customers may report water shortage violations and related complaints by contacting Utilities through a number of ways:
• Saving Water Hotline\(^4\): (970) 416-2881, answered live during working hours or voicemail
• Email: utilities@fcgov.com
• Access Fort Collins – water restrictions category: fcgov.com/accessfortcollins

Information needed for enforcement staff to investigate the report:
• Complainant’s name and contact information (may be anonymous)
• Address or specific location where the violation occurred
• Date and time the violation was observed
• Details about the violation (wrong day, wrong time, wasting water, etc.)

3.4 Turning Off Water
Reports are occasionally received where sprinklers or other water uses have been running for hours or days and all means of reaching the customer have failed. In those cases, Utilities staff can enter the property to shut off the sprinklers. See City Code Section 26-22 (Right of Entry) and Section 26-28(f) (Abatement of Imminent Hazards).

Chapter 4 WSAP Updates

4.1 WSAP Review
Utilities’ customers and stakeholders across the City organization and community will be included in any review and update process. Water shortages and related demand reduction strategies impact the community in a variety of ways, and any review will benefit from a broad and diverse public and stakeholder engagement process, including under-represented populations. For technical and professional recommendations, Colorado Water Conservation Board (CWCB) should be included in a WSAP review process. CWCB can provide insight from the State and regional level, as well as provide funding for water shortage planning and implementation.

4.2 Public Review Process
During any review and update process, Utilities staff will engage stakeholders and the public to share what a water shortage is, the value of a prepared action plan, the current WSAP, and solicit input on the WSAP and potential updates. Methods of engagement may include print and online materials and resources; in-person workshops, focus

\(^4\) This hotline is also used to report wasted water year-round regardless of a water shortage declaration, in accordance with City Code Section 26-166.
groups, presentations; and, digital tools, such as social media and electronic surveys. The method used will depend on the extent of the review and updates needed.

Stakeholders to engage include, but are not limited to:
- Affordable housing providers
- Business Associations
  - Chamber of Commerce
  - North Fort Collins Business Association
  - Midtown Business Association
  - Downtown Business Association
  - Downtown Development Authority
- Carwashes
- Certified Landscape Professionals and others in the landscape industry
- Faith-based and other non-profit organizations
- Key Accounts
- Vehicle Dealerships

Public engagement methods include, but are not limited to:
- Events like:
  - Bike to Work Day
  - Open Streets
  - Water Conservation or other Utilities events
- OurCity – interactive website
- Utilities Bill insert
- Water Reports

City Staff to engage include, but are not limited to:
- Code Compliance
- Natural Areas
- Operation Services
- Parks:
  - Forestry
  - Golf
- Planning and Development
- Recreation
- Streets
- Sustainability Services
- Transport
- Utilities:
  - Customer Accounts
  - Customer Care and Technology
  - Distribution
  - Finance
  - Water Resources
  - Wastewater Treatment
  - Water Treatment
  - Water Quality
### 4.3 Updates

Regular and frequent review of the WSAP and water shortage action measures is critical to ensure Utilities’ staff and customers are prepared for a water shortage. The WSAP should be reviewed at least every five years, or sooner as new information becomes available. Updates may be necessary during or following a water shortage event, updates to either the *Water Supply and Demand Management Policy* or the *Water Efficiency Plan*, or changes to City Code. The next update should be considered in 2023-2024 for potential adoption in 2025.

#### Updates for 2025 or Sooner

Updates for future versions of the WSAP were identified during the review and development of the current WSAP but could not be explored or incorporated due to resource or other constraints. The identified opportunities include:

While there are challenges to a **regional water shortage approach**, mainly being that water providers in the area do not have the same water supply portfolios, infrastructure, demands, or levels of service and; therefore, not all providers will experience shortages at the same time or to the same extent. Staff identified that there is potential grant funding available to develop a more regional type of approach but would require additional resources. Benefits to regional collaboration could include the following:

- Enhance existing and create new mutual aid agreements.
- Improve resiliency on a regional level regardless of water provider.
- Minimize customer confusion and experience of disjointed approaches.

**Water Budgets** is a method of assigning a target water use level based on characteristics of the property. The level or “budget” may be a function of occupancy, building size, landscape size and type, type of business, etc. Water budgets can be used for informational purposes, to inform rate structures, and/or to manage demand during a water shortage. Significant resources and customer communication efforts would be required to establish and administer water budgets. Beyond staffing and cost, assigning water budgets to commercial properties would require significant technical analysis. Benefits of a water budget approach to a water shortage could include the following:

- More equitable.
- Easier to implement during a water shortage compared to prescriptive restrictions.
- Greater customer flexibility and choice.

Among other goals and programs, the **CWCB** provides technical and financial assistance for communities and water providers wanting to develop a water shortage plan. CWCB provided a preliminary review of the WSAP in February 2020. Some recommendations were able to be incorporated; however, others will require additional funding and time to integrate. Utilities should consider the challenges and benefits of developing the following in future plan updates:

- Supply-side response strategies, like developing short-term supply agreements, for use during a water shortage.
- Supply and demand-side water shortage mitigation strategies, like tactics to implement prior to a shortage to minimize the likelihood of a shortage or minimize the severity of a shortage.
• Vulnerability assessments that evaluate what impacts could result from a water shortage, like studies that assess impacts to the economy resulting from water shortages.
Appendix A Communication and Engagement Plan

A.1 Communications and Marketing
A strong communications plan is the foundation to successful implementation of the WSAP. Utilities recognizes the need to be prepared to communicate to customers, stakeholders, City staff and departments, and others:

1) The water shortage situation and its associated impacts.
2) The WSAP and the water restrictions specific to the water shortage situation.

A public information campaign will need to be developed for each unique water shortage. The campaign will be closely coordinated with Utilities’ current water efficiency and conservation programs, as well as other key, relevant messages. The program(s) will promote the importance of conserving water and achieving water savings in times of plenty and in times of water shortages. During non-shortage years, a water shortage public information campaign will instead focus on awareness of the WSAP and the importance of preparedness.

The public information campaign will coordinate campaign efforts with nearby municipal entities, other water providers and conservation-oriented entities to capitalize on synergistic opportunities and convey, where appropriate, a consistent water shortage message.

Developing key messages is important. Utilities has created an extensive list of tactics for reaching customers with timely information about water restrictions. Messages will include information about the nature of the water shortage, how it will affect customers and what they can do to follow the restrictions to minimize further impacts and the need for stronger restrictions.

Depending on capacity and other factors, Utilities may contract with a communication consulting firm(s) to help develop effective messaging and graphic design.

Targeted outreach to internal and external customers also will be very important and is discussed in the Engagement section, below.

The following outlines communication objectives, messages and strategies that can be used in a variety of external communications and media during different stages of a water shortage. The messages and examples below are not comprehensive or necessarily exact. The current best practices for message development and delivery will be utilized and may result in different messages that what is contained in this appendix.

A.1.1 Messaging

Objective: To inform and educate our customers and key stakeholders about the water shortage, the water restrictions associated with the WSAP, actions to take to conserve water, and programs available to help customers through a water shortage.

Tagline: Reduce Our Use. This tagline was chosen during the 2013 water shortage to reflect the community commitment needed to achieve the reduction goals established.
This also created a social-based, community message that we are all involved in the solution. It could be used again, or another tagline could be created.

The following is an example of messaging that might be developed during the voluntary level when a shortage could occur due to drought. Similar plans could be created at any action level for any shortage situation.

**Voluntary Shortage Watch Objective:** Public Awareness

**Water Shortage Scenario:**
- Water supplies are below average.
- Conditions are dry.
- Continued dry weather could lead to mandatory watering restrictions.

**Message to Public:** To reduce the risk of progression to mandatory restrictions, limit watering your lawn to two days a week before 10 a.m. and after 6 p.m. only. Watering new seed, sod, plants, shrubs and gardens as recommended is allowed, but do not waste water and stay alert to water shortage status changes. Minimize indoor water waste by using water wisely: turn off faucets when not in use; shorten shower time when possible; and ensure full loads when running dishwashers and clothes washers.

**A.1.2 Key Messages**
Below are key messages, both primary and secondary, to help Utilities customers understand our water supply situation and the restrictions.

**Primary Messages**
- Watering trees and vegetable gardens is not restricted.
- Watering gardens and trees will be allowed in all levels of restrictions. Watering during Action Level III is limited to a hose with a shut-off nozzle or by drip and microspray irrigation.

Education is key.
Citizens can help reduce water use by educating family, neighbors and co-workers. Education is a critical first step of enforcing restrictions.

Fines are secondary.
First violations will generally receive a written warning (though this is not required) and information about the water restrictions.

Fort Collins has reduced its use significantly in the past decade.
Since the drought of 2002, the community has reduced overall water use by 25%. As the population has grown, total water use by customers has decreased, which has helped defer water shortages. Continued conservation is necessary year-round, but especially during a water shortage.

We can all make a difference.
Everyone in our community can help conserve water at home and at work. See fcgov.com for tips, rebates and programs.

Permits will be issued to accommodate special circumstances.
Permits will allow exceptions to restrictions as set forth in the WSAP.

**Utilities may go to higher action levels of restrictions.**
Stay updated on the current status. Higher levels of restrictions include rate increases to further promote conservation and recognize the reduction in revenue due to less water use at each respective action level of the WSAP.

**Restrictions apply only to treated water.**
Residents and businesses that use well or raw water to irrigate grass are exempt from the water restrictions. However, we strongly encourage them to follow the restrictions in order to set an example for the community, avoid negative perceptions and continue to conserve raw and well water sources. Signs must be posted.

**The City of Fort Collins has reduced its water use.**
The City has taken steps to reduce treated water at parks and golf courses, as well as in its facilities. By purchasing separate water rights for irrigation, the City uses 80% raw water on parks, golf courses and other outdoor lawn areas. Newer facilities built by the City have exceeded requirements for water efficiency indoors, saving water year-round.

We have two main sources for drinking water: the Poudre River and Horsetooth. The Poudre River was traditionally the source of water for Fort Collins, but as the City grew, it purchased units in the CBT project, which are delivered out of Horsetooth. Each source provides about half of the supply of water for treatment.

**The City of Fort Collins will follow water restrictions.**
The Parks department plans to adhere to current restriction levels even though 80% of irrigation water comes from raw water. The City also plans to curtail hydrant flushing and limit vehicle washing, per restrictions.

### A.1.3 Strategies and Tactics
Below are possible strategies for reaching our communication goals. These include outreach materials, advertising and media contacts. Spanish translation should be considered for strategies and tactics. This list is not comprehensive.

**Print Collateral**
- Water restrictions brochure to explain WSAP
- Poster campaign
- Tabletop cards for “Water Served Only Upon Request” for restaurants
- Hotel/lodging cards with current City logo, restrictions, and encouragement to reuse linens and towels
- Utility Bill Inserts
- Printed coasters with water conservation messages
- Direct mail campaigns all customers or targeted groups

**Website**
- Create and update a webpage on fcgov.com
- Spotlight on Utilities page and City home page
- Update Access Fort Collins
- Update conservation tips: watering, landscape/tree care, lawn dormancy
- CityNet (intranet website for City of Fort Collins employees)
City Newsletter Articles
- City News
- Neighborhood Newsletter
- Keep Current
- ClimateWire and other ClimateWise communications
- Economic News
- Fort Shorts

Media Articles
- In the City articles in the Coloradoan
- News releases
- Media outreach
- Advertorials

Newspaper/Magazine Advertising
- Coloradoan
- NoCo Style Magazine
- BizWest
- Rocky Mountain Parent Magazine
- 50 and Better Magazine
- CSU Life Magazine
- PSD Newsletters
- Fort Collins Magazine

Outdoor Advertising
- Bus benches
- Bus shelters
- Bus panels
- City parks, recreation, and other public facilities

Digital Marketing
- Digital ads
- Social media (Facebook, Twitter, Instagram, Nextdoor) advertising with organic
- FCTV CityView
- FCTV Bulletins
- Interactive Voice Response (IVR) Messages on phone system
- Sign up to receive water efficiency tips and updates and corresponding email campaign
- Messages in bills, usage reports and portals
- Presentation materials

Displays
Design to have at events and public locations, such as City buildings, libraries and other venues. Messages should include information about restrictions and efficient water use.

Other
• Graph(s) that illustrate water supplies relative to water demands to be updated regularly prior to and during a water shortage (consider using during non-water shortage times as well, to develop customer awareness)
• Door panel magnets for Utilities vehicles with conservation message
• Distribute water conservation kits – hose nozzles, showerheads and aerators
• Internal communication plan for City staff

Water Restrictions Icon
Design a graphic icon for newspapers and other media for customer awareness of restriction action levels. The icon can be updated to show different restriction levels.

Frequently Asked Questions
Frequently Asked Questions (FAQs) should be developed to help clarify and consistently answer questions about the restrictions. General FAQs should be on the website and a select list through Access Fort Collins.

Enforcement Materials
Prepare a packet of information that can be mailed or left as a door hanger when complaints are received. Develop materials for enforcement communication and permits.

• Packets
  o Flyers with restrictions
  o Residential focus
  o Commercial focus
  o Violation notices
  o Water restrictions: Notice of Complaint and Warning
  o Wasting water: Notice of Complaint and Warning
  o Brochure: watering with restrictions for lawn and tree health, landscape care, rebates, tips, controller programming help

• Permits
  o Applications with cover letters
  o Approval or non-approval letters/emails
  o Permit yard signs
  o Raw water yard signs
  o Email campaigns to communicate action level changes

A.2 Public Engagement
A well-planned public engagement program is critical to Utilities’ success in achieving water savings goals established by each action level. Public engagement is an extremely important step, as it asks the community to be a part of the solution during a water shortage and can minimize enforcement efforts. A wide range of engagement strategies should be pursued to inform internal and external stakeholders, and all customer types.

A.2.1 Speaker’s Bureau
Utilities will consider preparing several standard presentations for the public and train other Utilities staff as Ambassadors to give the appropriate presentation to the given
audience. Updates may be provided to the speakers and presentation content, as needed. Staff may accommodate requests for presentations and will proactively offer presentations to known groups and organizations.

Examples of organizations and existing groups that might receive a presentation are: Rotary Clubs, Kiwanis, Chamber of Commerce, Downtown Development Authority, Downtown Business Association, Board of Realtors, ClimateWise partners, Certified Landscape Professionals, Key Accounts, affordable housing providers, Colorado State University’s clubs and student organizations, faith based organizations, non-profit organizations that serve under-represented populations, etc.

<table>
<thead>
<tr>
<th>OTHER ENGAGEMENT OPPORTUNITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal</td>
</tr>
<tr>
<td>Develop Customer Service Representative (CSR) script and Frequently Asked Questions</td>
</tr>
<tr>
<td>Give monthly presentations to update CSRs</td>
</tr>
<tr>
<td>Give presentations to water and light and power crews</td>
</tr>
<tr>
<td>Presentation/training meetings – All Staff/Large Staff/Senior Staff, etc.</td>
</tr>
<tr>
<td>Presentation at existing team meetings</td>
</tr>
<tr>
<td>Provide communication materials to all</td>
</tr>
<tr>
<td>Water conservation challenge</td>
</tr>
</tbody>
</table>

A.2.2 Public Engagement Goals and Tracking
Goals for public engagement should be established and progress toward completion should be monitored and tracked. This allows activities and efforts to be reported on during a water shortage, supports successful water savings and allows Utilities to evaluate whether gaps exist in engagement efforts or customer segments. The following are metrics that can be used to track progress toward the goal(s):

- Number of presentations.
- Number of people present during presentations.
- Diversity of audiences.
- Number of ambassadors trained, including tracking ambassador efforts and consider recognizing co-workers’ contributions.
- Evaluation of effectiveness with a survey or live polling during a presentation to possibly assess familiarity with the water shortage and understanding of associated restrictions.
A.2.3 Targeted Business and Organization Outreach

Two major educational organizations that either would be impacted during a water shortage or can provide important partnership opportunities are Colorado State University (CSU) and Poudre School District (PSD). CSU uses little Utilities water to irrigate but should be considered a partner to provide consistent messages to the general public. Information and presentations should be provided for facilities staff, Associated Students of CSU and through CSU’s media channels (i.e. CSU Today). Information should also be disseminated to students living off campus, including fraternities and sororities.

Most of PSD’s athletic fields are irrigated by treated water provided by Utilities. Staff and key account representatives should work closely with PSD through calls, meetings and emails to facilitate understanding of the restrictions and their impacts. A meeting for all athletic directors should be held. In partnership with PSD, various engagement opportunities may exist to help with water shortage commutation efforts.

There are a variety of other commercial customers that may be affected by water restrictions. The following list of customers should be considered for targeted engagement:

- Breweries
- Retail, grocery stores, and coffee shops:
  o Store visits/meetings
  o In-store flyers and posters
- City’s Economic Health meeting
- Car Dealerships
  o Direct mail, restrictions limit car washing
- Car Washes
  o Direct mail
- Power Washing Companies
  o Direct mail, restrictions limit washing for only “health and safety”
  o Contact Downtown Business Association about sidewalk washing (meeting or mailing)
- Landscapers/Nurseries/Garden Centers
- Certified Landscape Professionals bi-annual meeting or email
  o Group meeting
  o Direct mailing
- Homeowner Associations (HOA)
  o Set up meeting/workshop
  o Information with HOA audits/Landscape Water Budgets
  o Direct mailing/water fountain information
  o Information at Neighborhood Service’s HOA meetings
  o Property management companies - send information/fountain information
- Health Clubs
  o Meeting
  o Signage for showers, faucets
- Hotels/Motels
  o Distribute linen and towel reuse cards
- Restaurants
  o Meeting/workshop
  o Information with pre-rinse program
Design and distribute “Water Served Upon Request” table cards

### A.2.4 Surrounding Water Districts
The neighboring water districts should be contacted prior to and during water restrictions to discuss opportunities to align communication plans and other responses and to keep other districts updated. The adjacent districts include:

- Fort Collins-Loveland Water District (FCLWD)
- East Larimer County Water District (ELCO)
- West Fort Collins Water District (WFCWD)

### A.2.5 Agriculture Water Renters
Previous agricultural CBT water renters should be contacted if the Utilities has decided to not conduct a raw water rental program as part of a supply-side response strategy.

### A.2.6 Internal Communication
Staff will present water shortage and restrictions information to City staff and when possible, will use established meetings. Information and updates should be provided to City boards and commissions and City Council and Mayor. High focus should be given to the following, who’s work may be affected by water restrictions.:

- Parks and Recreation Department
- Operation Services
- Code Compliance
- Natural Areas
- Development Review
- Communications and Public Involvement Office
- Environmental Services
- Economic Health
- Utilities:
  - Water Treatment
  - Water Quality
  - Water Distribution
  - Environmental Regulatory Affairs
  - Customer Care and Technology

Utilities staff can serve as ambassadors to convey water shortage key messages to the public. In addition, staff will partner with other City departments who can help be ambassadors when engaging with external customers during their normal business/work.
Appendix B Relation to Other Plans and Policies

The WSAP relates to other City plans and policies, most notably the Water Supply and Demand Management Policy (WSDMP) and the Water Efficiency Plan (WEP).

The WSDMP sets criteria for how to plan and manage Utilities’ water supply system, which can affect how often the WSAP may need to be used. The WEP outlines specific measures to be implemented to reach a specified water use goal. The measures address long-term conservation and efficiency efforts, not short-term adaptation measures, as outlined by the WSAP.

B.1 Water Supply and Demand Management Policy

The WSAP relies on a set of water supply and demand criteria in order to evaluate real or potential water shortages. These criteria are established by the City’s WSDMP, which provides general criteria for decisions regarding water supply projects, acquisition of water rights and demand management measures.

B.2 Water Efficiency Planning

A water shortage often requires a relatively immediate response, which is intended to be employed for a short duration. The response includes various adaptations to reduce demand and/or increase supplies. This differs from water conservation and efficiency efforts guided by the Water Efficiency Plan (WEP) in several ways.

WEP is meant to provide long-term demand reduction to increase resiliency to changing climate and increase awareness and education amongst Utilities’ customer base. The WEP is integrated into Utilities’ water resources planning, specifically the WSDMP. The focus areas within the WEP address codes, programs, incentives, planning and other work that result ongoing and persistent water conservation and efficiency.

The WEP is currently updated at least every seven years. Future updates to the WEP should consider long-term strategies for water shortage mitigation, including but not limited to:

- Water budgets
- Irrigation codes that require efficient watering best practices such as:
  - Seasonal watering windows
  - Minimization of daytime watering
  - Minimization of overwatering

Utilities Water Conservation Department began its efforts in 1977. In 1999, it began the Sprinkler Audit Program, which was then followed by several education programs, rebates and other incentives for customers to reduce their use with improved efficiency and greater conservation. In addition to the WEP, several codes exist that help mitigate water shortages and promote ongoing and long-term water efficiency and conservation.

B.3 Other Water and Emergency Policies

Several City policies and plans relate to the WSAP. Below is a list of current sections of the City Code that should be considered during a water shortage or when amending and
updating policies and plans, including the WSAP, to ensure consistency and cohesiveness.
  - City Code Section 26-166 (Waste of water prohibited)
  - Section 26-167 (Water supply shortage response, emergency restrictions)
  - Section 26-168 (Obligation to comply, penalties)

B.4 Emergency Planning

Many emergency plans are not made public for safety and security reasons. For purpose of the WSAP, it’s important to know that these plans exist and may be enacted prior to or during a water shortage, depending on the scenario.

Utilities Water Production Division maintains jurisdiction over various emergency operation plans:

- **Emergency Response Plan (ERP) / Emergency Operations Plan (EOP)**
- **ERP Appendix or Checklists for response to natural and manmade hazards**
- **Dam Emergency Action Plans**
- **Division of Drinking Water Emergency Notification Plan**
- **Hazard Mitigation Plans**
- **Continuity of Operations Plans (COOPs) / Continuity of Government Plans (COGs)/ Business Continuity Plans**
- **Water Outage / Emergency Drinking Water Plans**

Utilities Water Quality Services’ **Spill Response Plan** outlines actions and communication procedures when a contaminant threatens the Poudre River.

Emergency operation plans are managed by Larimer County Office of Emergency Management, City of Fort Collins’ Emergency Preparedness and Security Department, Poudre Fire Authority Office of Emergency Management and/or others who would respond to an emergency related to a water shortage.
Appendix C Historical Shortage Planning and Events

C.1 Timeline of Shortage Planning Efforts

**Ordinance 112, 118 and 135, 2002**
Between July and September 2002, multiple ordinances were adopted, each amending the previous ordinance to allow for greater lawn watering restrictions. In September 2002, City Council passed an ordinance limiting lawn watering to once per week and no watering between the hours of 10 a.m. and 6 p.m.

**Ordinance 048, 2003**
Beginning in April 2003, Ordinance 048, 2003, was adopted by City Council to respond to the persistent drought that began in 2002 and continued into 2003 in Fort Collins and the much of the region. The *Water Supply Shortage Response Plan (WSSRP)* was designed to respond to four levels of water shortage with a list of appropriate restrictions that included many more outdoor water use restrictions for each response level, beyond what was previously just lawn watering restrictions. The projected water supply shortages adopted for each level are:

- **Response Level I:** 1-10%
- **Response Level II:** 11-20%
- **Response Level III:** 21-30%
- **Response Level IV:** Greater than 30%

**Ordinance 047, 2013**
In preparing for the potential of moving to Response Level II or higher, City Council adopted Ordinance 047, 2013 in March 2013, which added rate increases starting at Response Level II and included some additional, minor amendments. The rate increase applied to all water rates and attempt to maintain revenues at the current budgeted level for each possible response level, since the water rate adjustments are based on a percent reduction in demand. Ordinance 047, 2013 also increases the Excess Water Use Surcharge for each response level beginning with Response Level I.

In addition to the rate adjustments, Ordinance 047, 2013 included two amendments to Ordinance 048, 2003. One changes the definition and use of “water fountains” and the other involves changes to the terms of permits for large acreage and parks and athletic/playing fields. The definition of “water fountain” was changed to “water feature,” a more comprehensive term. The definition was modified to apply to both public and private water features and to exclude water features that are part of a swimming pool. The proposed restrictions allow the use of both public and private water features at Response Levels I and II and prohibit them for Response Levels III and IV. Ordinance 047, 2013 removed the restriction on irrigating parks and public athletic/playing fields Tuesday through Thursday for Response Levels II and III and removes the same restriction on irrigating private property of four acres or more for Response Level II.
Ordinance 88, 2014
Additional changes were made following the 2013 shortage and adopted in July 2014. These changes were minor, but numerous and included changing the violation from a criminal to civil infraction, adjusting the response levels for certain water restrictions, resulting in either less or more restrictive use.

C.2 Historical Water Shortage Events
Utilities has formally declared two water shortages – 2002 and 2013. There is limited historical information and data suggesting that water shortages have occurred in Fort Collins in the past, but only two have occurred since a formal process and plan has been adopted by City Council.

2002/03 Water Shortage
Drought conditions were severe in 2002 across Colorado and much of the western United States. The Poudre River produced runoff of only about 30% of average, which is the lowest runoff since records began in 1884. This followed two dry years when runoff was about 70% of average. In addition, Northern Water, which allocates CBT quotas, gave an initial 2003 quota of 30%, compared to a 70% quota provided in 2002.

Although Utilities was able to meet water demands for 2002, the severe drought raised many concerns about the effect it would have on supplies for 2003 and beyond. Water savings resulting from restrictions and other water conservation efforts were carried over for use during 2003.

In March of 2003 the area received significant snowpack and Northern Water issued a 50% quota in April 2003, which lessened the shortage. A formal declaration date, stating that restrictions were over, is unknown. Restrictions resulted in an estimated reduction in expected use of about 18%.
2013 Water Shortage
The 2013 water shortage was a result of water quality and quantity issues that necessitated the declaration of a Level I water shortage response for two months – April 1, 2013, to June 1, 2013. Utilities was unsure how much water they would receive from CBT at Horsetooth and there were water quality concerns for the Poudre River water supply following two fires within this Poudre River watershed ignited in 2012 – the Hewlett Fire in May and the High Park Fire in June – burning over 94,000 acres in total (about 10% of the watershed). Rain events over the burn areas led to large amount of ash, sediment and debris deposited in the Poudre River, making it difficult to treat and deliver water from this source.

June-September 2012: Utilities relied solely on CBT supplies.

October 2012: Utilities started to blend CBT and Poudre River water to respond to variability in sedimentation.

March 2013: Outlook for the western U.S. forecasted that drought would persist or intensify through the spring of 2013.

April 1, 2013: Given the uncertainties and outlook, the City declared Level I water restrictions in order to prepare for a low CBT quota, which wouldn’t be issued until mid-April, and respond to the Poudre River water treatment challenges.

April 12, 2013: A 60% CBT quota was issued by Northern Water, which was insufficient to meet the carryover goals for 2014 supplies.

May 2013: A significant increase in mountain snowpack occurred that resulted in additional Horsetooth Reservoir supplies. Most of these additional supplies were from the unexpected pumping of Windy Gap water and an increase in CBT water appropriations from the North Poudre Irrigation Company.

June 1, 2013: Declaration terminating water restrictions. The graph below illustrates the increase in CBT supplies and the relationship to a 7,500 acre-feet carryover target that determined the termination of the water restrictions.
These additional Horsetooth supplies allowed Utilities to:
- Meet remaining 2013 water demands, even with a hot, dry summer.
- Achieve the carryover goal of having approximately 7,500 acre-feet of water in storage in the CBT system for use in 2014.
- Not require taking additional supplies from the fire-impacted Poudre River.

**Mitigation Measures**
Utilities spent 2012 and 2013 responding to expected increases to sediment levels and preparing for mitigation. The sedimentation issues at the treatment facility were mainly due to the variability of the sediment concentration. Whenever there were flow changes in the river, the sediment and subsequent turbidity changes. A pre-sedimentation basin was designed and constructed to mitigate the variation in the river water quality before it reaches Utilities' infrastructure. The basin allowed Utilities to manage raw water from the Poudre River during times of high sediment that naturally occur during spring snowmelt and runoff.
In addition to the basin, the Water Treatment Facility modified the treatment processes to address the challenges with variability of the river’s water quality. This included:

1) Adding oxidation for enhanced coagulation and taste and odor control
2) Monitoring additional raw water
3) Increasing pilot plant activity

Water quality monitoring infrastructure was enhanced in 2012 by adding two rainfall gauges and one water quality gauge in the Poudre Canyon, giving the treatment facility more information about the water quality and amount of water in the river. Two more water quality monitoring instruments were installed in April 2013. The gauges enable better understanding of how storms and runoff events will affect water quality.

**Response Effort**

An educational approach was taken to water restrictions, rather than issuing citations to customers. Utilities worked to engage and maintain the willing cooperation and support of customers.

One full-time Water Conservation employee issued permits and responded to complaints during the water shortage. In total 191 permits were issued, and 53 complaints were received, but no citations were ever issued.

The graph below illustrates the water savings during the water restriction period of April 1 through May 31, 2013. Although the wet, cool weather during this period may have been a large factor, water use was significantly lower than average and modeled expected use.
Appendix D Profile of Existing System

D.1 Service Area and Customer Profile

Fort Collins residents and businesses receive treated water from various water providers, the largest of which is Utilities. There are 134,000 Utilities water customers, which account for about 75% of Fort Collins residents and businesses.

In 2018, there were 32,900 residential accounts (single-family, duplex, and multifamily) and 2,800 commercial accounts (businesses, institutions and irrigation). Currently, Utilities delivers an average of approximately 24,000 acre-feet per year (21.4 million gallons per day) to its treated water customers. Utilities has approximately 5,000 acre-feet per year (4.5 million gallons per day) of treated and other raw water delivery obligations to other entities. The primary factor that affects demands is the weather. Annual water demands from Utilities’ customers can vary by around 10% above or below projected annual use depending on the local temperatures and precipitation.

The Utilities’ service area population continues to grow; however, the use per capita has become much more efficient over the last few decades. Utilities water customers used 143 gallons per capita per day in 2018. That’s down 32% since 2000 when all customers’ use averaged 211 gallons per person per day.
In 2018 the average monthly use for residential and commercial accounts shows seasonal and outdoor use varies significantly compared to winter months; accounting for 40% of the total annual water use.

**2018 AVERAGE MONTHLY WATER USE PER RESIDENTIAL ACCOUNT**

- **Average winter bills:** 5,500 gallons/month
- **Average peak summer bill:** 16,000 gallons/month
- **60-65% of a summer bill is mostly from irrigation**
- **Outdoor use accounts for 40% of all water use**

**2018 AVERAGE MONTHLY WATER USE PER COMMERCIAL ACCOUNT**

- **Average winter bills:** 63,000 gallons/month
- **Average peak summer bill:** 167,000 gallons/month
- **68-72% of a summer bill is from irrigation, cooling processes and the seasonal nature of some businesses**
- **Seasonal use accounts for 39% of all water use**

*Includes single-family, duplex and multifamily*
Existing Supplies
Utilities receives raw surface water from two main sources, the Poudre River and Horsetooth (which delivers waters available to Utilities from both the CBT project and Windy Gap). On average, each source provides about half of the supplies used to meet Utilities’ customer treated water demands. Utilities also uses transbasin water from the Michigan River that is conveyed to the Poudre River via the Michigan Ditch, as well as transmountain water through its ownership of shares in the Water Supply and Storage Company.

Utilities’ Horsetooth supplies can be taken directly into the treatment facility, whereas the Poudre River supplies must be delivered via two different pipelines. The management of this system has allowed for flexibility to mitigate water quality issues by mixing these sources at different times of the year to meet customer demands and water quality requirements.

Utilities also rents water to local agriculture users in years when projections verify that supplies will be in excess of demands and maximum reservoir storage capacity.

Because of system capacity constraints, legal constraints, and annual yield variations, the amount available to meet treated water demands varies. Utilities’ water supplies can meet an average annual treated water demand of approximately 30,400 acre-feet during a period that includes a 1-in-50 drought. During droughts that are more severe than 1-in-50, conservation measures or restrictions may need to be implemented to reduce demand levels to meet the available supplies.

D 1.1 Poudre River Sources
Utilities has five senior direct flow water rights decrees on the Poudre River that allow Utilities to divert water into the Fort Collins Pipeline year-round. These decrees are very senior and are available to Utilities most of the time. The yields are fairly constant and do not vary significantly from wet to dry years.

Utilities also owns and has changed to municipal use shares in several of the irrigation canal and reservoir companies that are in and around Fort Collins, which provide other Poudre River sources. The yields from these changed irrigation rights can vary significantly from wet to dry years. However, without additional Poudre basin storage, the ability to use these sources is limited. The proposed Halligan Reservoir enlargement will significantly improve the usefulness of these water rights.

Finally, Utilities has several junior pipeline decrees that allow Utilities to divert water into the Fort Collins Pipeline year-round. These junior decrees are typically only in priority during the peak runoff period and in very dry years; Utilities may not be able to divert any water under these rights.

D.1.2 Joe Wright Reservoir-Michigan River System
The Joe Wright Reservoir-Michigan Ditch System is another important source of water for Utilities. This system, using the Michigan Ditch, diverts water from the Michigan River basin into the Poudre River basin through Joe Wright Reservoir. The reservoir can store Michigan Ditch diversions and water from Joe Wright Creek. To ensure that the Michigan Ditch system can continue to operate even when there is a call placed on the Michigan River that is senior to Utilities’ Michigan Ditch water rights, Utilities owns rights to water in Meadow Creek Reservoir. This reservoir is located in the Michigan River basin and
water can be released from the reservoir to allow the Michigan Ditch to continue to divert water. Even with Meadow Creek Reservoir, the yields from this system can vary considerably from wet to dry years.

**D.1.3 CBT and Windy Gap Supplies**

Northern Water manages and operates both the CBT and Windy Gap projects, which can be delivered out of Horsetooth. Utilities owns 18,855 units of CBT and these units typically deliver between a half to a full acre-foot per unit. Utilities also owns 3,564 shares of the North Poudre Irrigation Company, each of which includes four CBT units, though Utilities typically receives less water per unit from them due to assumed losses in the North Poudre Irrigation Company system.

Utilities also has a contractual right to annually receive 4,200 acre-feet of Windy Gap water through the *Reuse Plan*. The Windy Gap system has a junior water right and there is no dedicated storage to manage this water. The Windy Gap Firming Project is expected to improve the reliability of this supply.
Appendix E Water Supply Vulnerability Assessment

Utilities conducted a Water Supply Vulnerability Study (Study) in 2018-2020\(^5\). The study evaluated thousands of supply and demand scenarios including the potential effects from changing climate. The model indicated that increased temperature and/or decreased precipitation could result in more frequent water shortages than previously experienced. The modeling for the study needs additional refinement in order to evaluate impacts to water supplies resulting from various action level restrictions and other demand and supply-side responses.

Impacts of changing climate further the importance for water shortage action planning and highlight the need for long-term responses, as well as both increasing supplies and improving efficiency during non-water shortage years.

**Improving supply vulnerabilities - Halligan Reservoir**

Utilities has been pursuing the enlargement of Halligan Reservoir through a federal permitting process since 2006. Additional storage in an enlarged Halligan Reservoir would reduce the frequency and severity of water restrictions during droughts.

An enlarged Halligan Reservoir will help meet most of Utilities’ future projected water demands, while maintaining this same level of service. Our current treated water firm yield (amount of demand that can be met through the 1-in-50 drought while maintaining a 20% storage reserve) without an enlarged Halligan Reservoir is about 30,400 acre-feet. Once built, an enlarged Halligan Reservoir will help meet Utilities’ projected future treated water demands of about 38,400 acre-feet. So roughly 8,000 acre-feet (or about 20%) of Utilities’ projected future demands will be firmly provided with the addition of an enlarged Halligan Reservoir.

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\(^5\) The Water Supply Vulnerability Study can be made available, upon request, by contacting the Fort Collins Utilities Water Resources Division.
AGENDA ITEM SUMMARY
City Council

April 21, 2020

STAFF

Chris Martinez, Financial & Policy Analyst
Amanda King, Communications/Public Involvement Director
Jim McDonald, Cultural Services Director
Ryan Malarky, Legal

SUBJECT


EXECUTIVE SUMMARY

This item is coming to Council at this time as a Second Reading Ordinance. It relates to funding activities that must move forward in a timely way. Specifically, per the City’s contract with Visit Fort Collins for convention and visitor services the payment must be made by the City in May. For Fort Fund, the appropriation fulfills the 2020 grant disbursement requirements. The review is in progress and being reviewed by the Cultural resources Board in April.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $753,709, of which $441,944 is proposed for 2020 Cultural Development and Programming Activities (Fort Fund), $48,198 is proposed for 2020 Tourism Programming (Fort Fund), and $263,567 is proposed for 2020 Convention and Visitors Program activities, from a combination of Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging taxes are annually collected by the City of Fort Collins for Cultural Development and Tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on actual collections. Lodging tax revenue collected in 2019 was $376,406 above projected collections.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 055, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

STAFF

Chris Martinez, Financial & Policy Analyst
Amanda King, Communications/Public Involvement Director
Jim McDonald, Cultural Services Director
Ryan Malarky, Legal

SUBJECT


EXECUTIVE SUMMARY

The purpose of this item is to appropriate $753,709, of which $441,944 is proposed for 2020 Cultural Development and Programming Activities (Fort Fund), $48,198 is proposed for 2020 Tourism Programming (Fort Fund), and $263,567 is proposed for 2020 Convention and Visitors Program activities, from a combination of Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

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STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Section 25-44 of the City Code requires that 75% of the total lodging tax receipts be used for the promotion of convention and visitor activities in the City and 25% of receipts be used for cultural development and programming activities in the City. Actual revenue collected is appropriated based on this allocation formula and any excess revenue and budget savings are reserved for these activities in the General Fund.

Pursuant to a contract with the Fort Collins Convention and Visitors Bureau (FCCVB), the City has paid a portion of lodging tax receipts to the FCCVB since 2011 for delivery of convention and visitors programming services in furtherance of the City Code requirement. The amount due for convention and visitors programming is appropriated based on prior year receipts and paid annually to FCCVB after the close of the prior tax year.

When actual lodging tax receipts exceed the anticipated amount appropriated for cultural development and programming activities, the City also appropriates additional funds and adjusts the amount allocated for those activities in the year following the year in which the tax is collected. Appropriated lodging tax revenues remaining unspent at the end of the tax year lapse into the General Fund and may be appropriated the following year for the same purposes as they were originally appropriated.
The actual tax revenue collected during the 2019 tax year, as determined March 2020, was $376,403 more than the Lodging tax revenue anticipated and appropriated for expenditure in 2019. Accordingly, upward adjustments to the 2020 appropriations under Section 25-44 of the City Code are required. In addition, Budget staff has recommended unspent appropriations for convention and visitor activities and cultural development and programming activities that lapsed into the General Fund in 2019 be re-appropriated in 2020 for the same purposes as originally appropriated. These appropriation adjustments are described below.

CITY FINANCIAL IMPACTS

<table>
<thead>
<tr>
<th>2020 LODGING TAX CLARIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 25-44 of the City Code:</td>
</tr>
<tr>
<td>Promote Convention &amp; Visitor Activities</td>
</tr>
<tr>
<td>75%</td>
</tr>
<tr>
<td>503200</td>
</tr>
<tr>
<td>Convention &amp; Visitors Bureau</td>
</tr>
<tr>
<td>70%</td>
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</table>

<table>
<thead>
<tr>
<th>Lodging Tax</th>
<th>75%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unanticipated Lodging Tax</td>
<td>263,484</td>
<td>18,820</td>
</tr>
<tr>
<td>Unspent Appropriations</td>
<td>83</td>
<td>29,378</td>
</tr>
<tr>
<td>Total of Unanticipated Lodging Tax and Unspent Appropriations Available for 2020</td>
<td>$263,567</td>
<td>$48,198</td>
</tr>
</tbody>
</table>

$441,944 $753,709
ORDINANCE NO. 055, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES AND UNANTICIPATED
REVENUE IN THE GENERAL FUND FOR CULTURAL DEVELOPMENT
AND PROGRAMMING ACTIVITIES, TOURISM PROGRAMMING,
AND CONVENTION AND VISITOR PROGRAM SERVICES

WHEREAS, Section 25-244 of the Code of the City of Fort Collins requires that lodging
 tax revenue is to be allocated as follows: 75% for the promotion of convention and visitor activities and 25% for cultural development and programming activities; and

WHEREAS, Lodging Tax revenue was estimated at $1,570,000 for 2019 and appropriated; and

WHEREAS, at the end of 2019, a total of $1,946,406 in Lodging Tax revenues had been collected and the unspent portions lapsed into the General Fund Reserves for Lodging Tax programs and activities; and

WHEREAS, unanticipated Lodging Tax revenue in the amount of $376,406 held in the General Fund Reserves is to be appropriated for each of the Lodging Tax programs and activities as follows; and

- Cultural Development and Programming $94,102
- Tourism Programming $18,820
- Fort Collins Convention and Visitors Bureau $263,484; and

WHEREAS, unexpended 2019 appropriations of Lodging Tax revenue in the amount of $377,303 have lapsed and were returned to the General Fund, and are to be appropriated for Lodging Tax programs and activities based on the use specified when they were first appropriated, as follows; and

- Cultural Development and Programming $347,842
- Tourism Programming $29,378
- Fort Collins Convention and Visitors Bureau $83; and

WHEREAS, the total additional 2020 appropriations are $753,709 to make the full payment to the Fort Collins Convention and Visitors Bureau and Fort Fund Cultural Development and Programming and Tourism Programming; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and
WHEREAS, Article V, Section 9 of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during any fiscal year; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of promoting visitor activity as well as cultural development and programming activities; and

WHEREAS, the City wishes to appropriate funds allocated for Cultural Development and Programming, Tourism Programming, and the Fort Collins Convention and Visitors Bureau.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated for expenditure from prior year reserves in the General Fund the total sum of FOUR HUNDRED FORTY-ONE THOUSAND NINE HUNDRED FORTY-FOUR DOLLARS ($441,944) for Cultural Development and Programming activities.

Section 3. That there is hereby appropriated for expenditure from prior year reserves in the General Fund the total sum of FORTY-EIGHT THOUSAND ONE HUNDRED NINETY-EIGHT DOLLARS ($48,198) for Tourism Programming activities.

Section 4. That there is hereby appropriated for expenditure from prior year reserves in the General Fund the total sum of TWO HUNDRED SIXTY-THREE THOUSAND FIVE HUNDRED SIXTY-SEVEN DOLLARS ($263,567) for the Fort Collins Convention and Visitors Bureau.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
Passed and adopted on final reading on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Terra Sampson, Project Manager, Energy Services
John Phelan, Energy Services Manager
John Duval, Legal

SUBJECT
Second Reading of Ordinance No. 056, 2020, Making Supplemental Appropriations and a Transfer from the Light & Power Fund to be Expended in Support of the Epic Homes Program.

EXECUTIVE SUMMARY
This item is coming to Council on Second Reading. The appropriation of these grant funds is necessary to enable Utilities and Economic Health to move forward with project management and operations for the Bloomberg Mayors Challenge grant project (the Epic Homes program). Epic Homes is a streamlined, affordable approach for single-family home and rental property energy efficiency upgrades to improve comfort, health and efficiency in Fort Collins.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, appropriates $118,135 in grant funds from Bloomberg Philanthropies and interest earned on previous grant funds, as part of the Bloomberg Mayor’s Challenge, from the Fort Collins Utilities Light and Power Fund to be expended for the ongoing project management and operations of Epic Homes Program by Utility Services and the Economic Health Office (EHO) and to pay a sub-grant to Colorado State University for indoor environmental quality research. The funds paid to the EHO will be accomplished by a transfer from the Light and Power Fund. The Bloomberg Philanthropies funds come from (1) the 2020 grant installment of $112,000 and (2) $6,135 in interest earned on advanced Bloomberg Philanthropies funds as of December 31, 2019. Based on terms of the Bloomberg grant agreement, all advanced grant funds are subject to accruing interest, with such interest earned being reported on a semi-annual basis, and with such earnings used to further project goals as demonstrated in the agreement among Bloomberg and the City.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 056, 2020 (PDF)
AGENDA ITEM SUMMARY                   April 7, 2020
City Council

STAFF

Terra Sampson, Project Manager, Energy Services
John Phelan, Energy Services Manager
John Duval, Legal

SUBJECT

First Reading of Ordinance No. 056, 2020, Making Supplemental Appropriations and a Transfer from the Light & Power Fund to be Expended in Support of the Epic Homes Program.

EXECUTIVE SUMMARY

The purpose of this item is to appropriate $118,135 in grant funds from Bloomberg Philanthropies and interest earned on previous grant funds, as part of the Bloomberg Mayor’s Challenge, from the Fort Collins Utilities Light and Power Fund to be expended for the ongoing project management and operations of Epic Homes Program by Utility Services and the Economic Health Office (EHO) and to pay a sub-grant to Colorado State University for indoor environmental quality research. The funds paid to the EHO will be accomplished by a transfer from the Light and Power Fund. The Bloomberg Philanthropies funds come from (1) the 2020 grant installment of $112,000 and (2) $6,135 in interest earned on advanced Bloomberg Philanthropies funds as of December 31, 2019. Based on terms of the Bloomberg grant agreement, all advanced grant funds are subject to accruing interest, with such interest earned being reported on a semi-annual basis, and with such earnings used to further project goals as demonstrated in the agreement among Bloomberg and the City.

The City Manager recommends these appropriations and has determined that the funds for them are available and previously unappropriated from the Light and Power Fund and will not cause the total amount appropriated in the Light and Power Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this year. In addition, the City Manager recommends the transfer of the $14,956 from the Light and Power Fund to the General Fund to be expended to cover the EHO’s costs in managing and operating the Epic Homes Program and determined that the purpose for which the funds are to be expended remains unchanged, which purpose is to support the Epic Homes Program.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Epic Homes

In October 2018, Fort Collins became a winner of the 2018 Bloomberg Mayors Challenge and the associated $1M prize. The 2018 Bloomberg Mayors Challenge involved over 300 cities proposing ideas to address important issues in their community. The City’s proposal, Epic Homes, was selected as a winner for its innovative approach to providing health and equity benefits to residents, specifically for low-to-moderate income renters, by improving the energy efficiency of rental homes. Residential property owners can take advantage of Epic Homes’ easy streamlined steps to make their homes more comfortable, healthy and efficient. Partnering with Colorado State University, Fort Collins is also establishing a research study which links the health and well-being indicators of improved indoor environmental quality.
Epic Homes is a comprehensive portfolio for single-family home performance, for both owner-occupied and renter-occupied properties. Epic Homes includes energy assessments and rebates (Efficiency Works Homes), on-bill financing (Epic Loans), an indoor environmental quality and health/well-being study (IEQ Study), and documentation of home improvements (Epic Certificate) (Attachment 1). Detailed information regarding the Epic Homes program can be found at www.fcgov.com/epichomes <http://www.fcgov.com/epichomes>.

Bloomberg Mayors Challenge Funding

The Bloomberg Mayors Challenge grant supports a three-year performance period from 2019 through 2021. The project includes a semi-annual review of the budget categories with an opportunity to revise the amounts, subject to the approval of Bloomberg Philanthropies. The 2020 tranche of the Bloomberg award for $112,000 was received in March 2020. Additionally, the 2019 Bloomberg award funds earned $6,135 in interest over the course of 2019 from funds advanced by Bloomberg Philanthropies – funds received in advance to spending in accordance with grant terms.

The 2020 funds will support a subgrant to Colorado State University to implement an indoor environmental quality and health/well-being study, project costs for Fort Collins Utilities (e.g., staff, supplies, workshops/trainings, travel, software, loan-related fees, marketing, etc.), and project costs for Economic Health. Table 1 summarizes the appropriation.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Appropriated To</th>
<th>Funds Source</th>
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<tr>
<td>Colorado State University Indoor Environmental Quality (IEQ) Study</td>
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<td>Operating business unit of L&amp;P</td>
<td>Bloomberg Award - 2020 Installment</td>
</tr>
<tr>
<td>Grant project management and operating expenses</td>
<td>$47,044</td>
<td>Operating business unit of L&amp;P</td>
<td>Bloomberg Award - 2020 Installment</td>
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<tr>
<td>Grant project management and operating expenses</td>
<td>$6,135</td>
<td>Operating business unit of L&amp;P</td>
<td>Bloomberg Award - 2019 Interest Earned on Award Funds Before Expensed</td>
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<tr>
<td><strong>Light and Power Fund Subtotal</strong></td>
<td>$103,179</td>
<td></td>
<td></td>
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<tr>
<td>Grant project management for Economic Health Office</td>
<td>$14,956</td>
<td>Operating business unit of EH</td>
<td>Bloomberg Award - 2020 Installment</td>
</tr>
<tr>
<td><strong>Economic Health Subtotal</strong></td>
<td>$14,956</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$118,135</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

CITY FINANCIAL IMPACTS

The 2020 funds for appropriation have been received and are being held on the Light & Power balance sheet awaiting this appropriation ordinance. The 2019 interest earned is being held in Light & Power reserves. The appropriation of these funds will enable Utilities and Economic Health to move forward with the next phases of the project. There is no financial exposure to the City.

ATTACHMENTS

1. Epic Homes Structure and Components Diagram (PDF)

Attachment: First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (9021 : SR 056 Epic Homes Program)
ORDINANCE NO. 056, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING SUPPLEMENTAL APPROPRIATIONS AND
A TRANSFER FROM THE LIGHT & POWER FUND
TO BE EXPENDED IN SUPPORT OF THE EPIC HOMES PROGRAM

WHEREAS, the City has previously established and funded a program to assist certain Electric Utility customers of Fort Collins Utility Services (“Utility Services”) in financing home-energy-efficiency and renewable-energy improvements for single-family residential properties they own by making loans to these customers, whether their properties are owner- or renter-occupied (“Epic Homes Program”); and

WHEREAS, in 2018, the City was awarded a $1 million grant from Bloomberg Philanthropies (“Bloomberg”) to be used for the Epic Homes Program, which grant is being paid to the City under an agreement with Bloomberg that provides for certain annual payments to the City; and

WHEREAS, the City has recently received from Bloomberg the 2020 grant payment in the amount of $112,000, which payment have been deposited into the City’s Light and Power Fund established in City Code Section 8-77 (the “Light & Power Fund”); and

WHEREAS, previous years’ grant funds received from Bloomberg that have been deposited in the Light & Power Fund earned $6,135 of interest in 2019, which amount is unexpended from the Light & Power Fund; and

WHEREAS, it is proposed that the $112,000 received from Bloomberg in 2020 be appropriated from the Light & Power Fund and that the $6,135 in interest be appropriated from the reserves in the Light & Power Fund from prior years with this total amount of $118,135 to be expended as follows: (i) $50,000 for payment to Colorado State University for the Indoor Environmental Quality Study (“CSU Study”), (ii) $53,179 for Utility Services’ costs to manage and operate the Epic Homes Program, and (iii) $14,956 for transfer to the City’s General Fund to cover the Economic Health Office’s costs in also managing and operating the Epic Homes Program; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make supplemental appropriations from the Light & Power Fund by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, do not exceed the current estimate of actual and anticipated revenues to be received during this fiscal year; and

WHEREAS, Article V, Section 9 of the City Charter also permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years in the Light & Power Fund, notwithstanding that such reserves were not previously appropriated; and
WHEREAS, the City Manager has recommended the appropriations described herein and determined that the funds for these appropriations are available in and previously unappropriated from the Light & Power Fund and will not cause the total amount appropriated in the Light & Power Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year; and

WHEREAS, Article V, Section 10 of the City Charter authorizes the City Council, upon recommendation of the City Manager, to transfer by ordinance any unexpended and unencumbered appropriated amount or portion thereof from one fund or capital project to another fund or capital project, provided that the purpose for which the transferred funds are to be expended remains unchanged, the purpose for which the funds were initially appropriated no longer exists, or the proposed transfer is from a fund or capital project in which the amount appropriated exceeds the amount needed to accomplish the purpose specified in the appropriation ordinance; and

WHEREAS, the City Manager has recommended the transfer of the $14,956 from the Light & Power Fund to the General Fund to be expended to cover the Economic Health Office’s costs in managing and operating the Epic Homes Program and determined that the purpose for which the funds are to be expended remains unchanged, which purpose is to support the Epic Homes Program; and

WHEREAS, these appropriations and transfer benefit the public’s health, safety and welfare and serve the utility and public purposes of supporting the Epic Homes Program that improves the energy efficiency of older homes in Fort Collins, thereby benefiting Electric Utility ratepayers and the health, safety and comfort of the inhabitants of the improved homes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from anticipated grant revenue in the Light & Power Fund the sum of ONE HUNDRED TWELVE THOUSAND DOLLARS ($112,000) for expenditure from the Light & Power Fund to fund the CSU Study, to pay Utility Services’ costs to manage and operate the Epic Homes Program and for the transfer of $14,956 to the General Fund to pay the Economic Health Office’s costs to manage and operate the Epic Homes Program.

Section 3. That there is hereby appropriated from prior year reserves in the Light & Power Fund the sum of SIX THOUSAND ONE HUNDRED THIRTY-FIVE DOLLARS ($6,135) for expenditure from the Light & Power Fund to pay Utility Services’ costs to manage and operate the Epic Homes Program.

Section 4. That the transfer of FOURTEEN THOUSAND NINE HUNDRED FIFTY-SIX DOLLARS ($14,956) from the Light & Power Fund to the General Fund is authorized for expenditure by the Economic Health Office to pay its costs to manage and operate the Epic Homes Program.
Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

ATTEST:

Mayor

_______________________________

City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

ATTEST:

Mayor

_______________________________

City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF

Mark Sears, Natural Areas Manager
Ingrid Decker, Legal

SUBJECT

Second Reading of Ordinance No. 057, 2020, Amending Section 2-568 of the Code of the City of Fort Collins to Clarify Ethical Rules of Conduct to Address Employee Housing and Purchases from the City.

EXECUTIVE SUMMARY

This item is coming to Council as a Second Reading. It is high priority as it will allow immediate housing of an employee who will serve as a caretaker on a large remote property to help protect the valuable recently acquired assets.

This Ordinance, unanimously adopted on First Reading on April 7, 2020, amends City Code to clarify that the City Charter’s prohibition on City employees purchasing property from the City was not intended to prevent employees from compensating the City for the value of housing that they are required to live in as a condition of employment. This would confirm Council’s expectations related to this issue and to clarify how these kinds of housing arrangements relate to the Charter requirement.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 057, 2020 (PDF)
AGENDA ITEM SUMMARY

City Council

April 7, 2020

STAFF

Mark Sears, Natural Areas Manager
Ingrid Decker, Legal

SUBJECT

First Reading of Ordinance No. 057, 2020, Amending Section 2-568 of the Code of the City of Fort Collins to Clarify Ethical Rules of Conduct to Address Employee Housing and Purchases from the City.

EXECUTIVE SUMMARY

The purpose of this item is to propose a Code change to clarify that the City Charter’s prohibition on City employees purchasing property from the City was not intended to prevent employees from compensating the City for the value of housing that they are required to live in as a condition of employment. This would confirm Council’s expectations related to this issue and to clarify how these kinds of housing arrangements relate to the Charter requirement.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

A. Employee Housing

City departments have on occasion found that arranging for an on-site employee at a City property serves important purposes and helps to preserve the property, provide more readily available service to the public or improves the employee’s access to a work site.

As a primary example, for over ten years Natural Areas has required three employees to live in City-provided houses as a condition of their employment: a ranger at Gateway Natural Area; a ranger at Bobcat Ridge Natural Area; and, a caretaker at Primrose Studio on Reservoir Ridge Natural Area. Recently Natural Areas worked with the City Attorney’s Office (CAO) on a fourth Employee Housing Agreement to house an employee in an existing home on the recently acquired Bishop Ranch property at the north end of Redstone Canyon, which along with two other parcels was named the Crossline Canyons Natural Area. This employee will serve during their off-duty hours as a sentinel for this remote property and house and monitor the 1,300-acre property and care for the house and outbuildings.

The first ranger residence agreement, at Gateway Park in 2001, did not require the employee to pay rent; rather the housing was provided in consideration of the duties to be performed by the employee on site. Over the next ten years, Natural Areas shifted to charging employees rent for occupying the City houses. All four positions are now required to compensate the City for approximately 50% of the fair market rental rate for the houses they are required to live in.
Agenda Item 11

B. Relevant Charter Provision

During the preparation of the fourth Employee Housing Agreement a review of how this policy had evolved from not charging the employees led to the realization there could be a question as to whether requiring employees to pay the City for housing would potentially be in conflict with the City Charter.

Article IV, Section 9(b)(2) of the Charter says:

(2) Purchases from the City. No officer, employee or relative shall, directly or indirectly, purchase any real or personal property from the city, except such property as is offered for sale at an established price, and not by bid or auction, on the same terms and conditions as to all members of the general public.

The onsite residences occupied by City employees on City sites are not residences that the City would likely ever offer for rental by the general public because of their location, for example, on Natural Areas properties. There is also a question as to whether such an arrangement with an employee would be treated as a purchase of real property from the City.

C. Proposed Solution

Staff considered several lease arrangement options to avoid raising this Charter question. One possibility was to not charge the employees but, instead, consider the value of the housing to be part of the total compensation for their employment and reduce their salaries accordingly. However, this would have a negative impact on their employee benefits contributions including retirement accounts and Social Security. Another option was to keep their salaries the same and not charge them anything for their City-provided housing, but Natural Areas felt this would create an unfair windfall for a few employees.

In light of this, staff is requesting a change to Section 2-568 of the City Code regarding ethical rules of conduct to clarify and establish Council’s concurrence that the Charter prohibition on City employees’ purchases from the City was not intended to include City employees compensating the City for the value of housing that they are required to live in as a condition of employment.

Over the last ten plus years, it has proven to be essential to the management of Gateway, Bobcat Ridge and Primrose Studio to have employees live in houses on site to provide an almost 24/7 presence. It is also essential to the management of Crossline Canyons to have an employee live on site to monitor and care for the property and the house.

CITY FINANCIAL IMPACTS

The City benefits financially by having employees live in City owned housing on remote sites to provide a presence on the site, monitor and care for the property and house in exchange for reduced rent.

BOARD / COMMISSION RECOMMENDATION

The Land Conservation and Stewardship Board recommends that City Council approve the proposed Code Change.

PUBLIC OUTREACH

The only public outreach has been to the Land Conservation and Stewardship Board on March 11, 2020.

ATTACHMENTS

1. Land Conservation and Stewardship Board minutes, March 18, 2020 (draft) (PDF)
ORDINANCE NO. 057, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 2-568 OF THE CODE OF THE CITY OF FORT COLLINS
TO CLARIFY ETHICAL RULES OF CONDUCT TO ADDRESS EMPLOYEE
HOUSING AND PURCHASES FROM THE CITY

WHEREAS, City departments have on occasion found that arranging for an on-site employee at a City property serves important purposes and helps to preserve the property, provide more readily available service to the public or improves the employee’s access to a work site; and

WHEREAS, for many years the City’s Natural Areas Department has required three employees to live in City-provided houses on Natural Areas’ properties as a condition of their employment, to help safeguard and maintain these properties; and

WHEREAS, although such arrangements did not require the employee to pay rent to the City for this housing, over time these arrangements have evolved to include a charge to the employees of approximately 50% of the fair market rental rate for the houses they live in; and

WHEREAS, in evaluating whether requiring employees to pay rent for housing they live in as a requirement of their jobs could be seen as a conflict with Article IV, Section 9(b)(2) of the City Charter, which prohibits employees from purchasing real or personal property from the City except property that is offered for sale on the same terms and conditions to all members of the general public, staff has concluded that such arrangements don’t fall within the intended scope of the Charter prohibition; and

WHEREAS, because the City does not intend to offer these houses for rent by the public, and paying for housing would not necessarily be considered a purchase of real property from the City, to confirm Council’s expectations related to this issue and to clarify how these kinds of housing arrangements relate to the Charter requirement, staff is proposing this Ordinance to amend Section 2-568 of the City Code regarding ethical rules of conduct to clarify that the Charter prohibition on employees’ purchases from the City should not be interpreted and was not intended to apply to employees paying for employee housing provided by the City; and

WHEREAS, the Council has determined that the proposed Code amendment it is in the best interest of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2-568 of the Code of the City of Fort Collins is hereby amended by the addition of a new subsection (a)(14) to read as follows, and the remaining subsections renumbered accordingly:

-1-
Sec. 2-568. - Ethical rules of conduct.

(a) Definitions. The following words, terms and phrases, when used in this Section, Section 2-569 and in Section 9 of the Charter Article IV, shall have the following meanings:

... 14) *Purchases from the city*, as described in Section 9(b)(2) of Charter Article IV, shall not include payments by an employee to the city pursuant to an agreement for housing in which such employee is required to live as a condition of employment with the city.

Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020 and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________  
Mayor

ATTEST:

______________________________
City Clerk

Passed and adopted on final reading on this 21st day of April, A.D. 2020.

__________________________________  
Mayor

ATTEST:

______________________________
City Clerk
AGENDA ITEM SUMMARY
City Council

STAFF
Nina Bodenhamer, City Give Director
John Duval, Legal

SUBJECT
First Reading of Ordinance No. 062, 2020. Appropriating an Unanticipated Charitable Donation to the City from Broadcom Inc. to be Used for COVID-19 Relief.

EXECUTIVE SUMMARY
While this item is not critical or urgent in nature as related to the COVID-19 emergency, it is being presented to Council now because it provides funds to be used to mitigate the effects of the emergency.

The purpose of this item is to appropriate $100,000 in unanticipated philanthropic revenue in the General Fund for COVID-19 community relief. The intent of the charitable gift, facilitated and secured by City Give, is designated by the donor, Broadcom Inc., to support the critical and expanded needs of essential community services and organizations.

It is the donor’s determination the City possesses unique knowledge of urgent community gaps and can serve as a critical gateway as to how monies can be effectively and immediately applied to local emergency relief. Thus, the City will distribute $75,000 of the total gift to three community partners: Neighbor to Neighbor, New Belgium Bar & Restaurant Relief Fund and Poudre School District. The remaining $25,000 will be used to support City efforts across its service areas, departments and programs, to include, without limitation, Adopt-A-Neighbor, Safety & Risk Management, Social Sustainability and to launch childcare for essential employees, specifically police and other first responders.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION
The purpose of this item is to appropriate $100,000 in unanticipated philanthropic revenue in the General Fund for COVID-19 community relief. The intent of the charitable gift is designated by the donor, Broadcom Inc., to support the critical and essential needs of our residents during this unprecedented national and community crisis.

City of Fort Collins: COVID-19 Response and Direct Services
City staff are working fast and furiously to respond to increased needs and community challenges. COVID-19 Relief funding will support City efforts across its service areas, departments programs, including, without limitation, Adopt-A-Neighbor, Safety & Risk Management, Social Sustainability and launching childcare for essential employees, specifically police and other first responders.

Neighbor to Neighbor: Emergency Rental Assistance
For over 50 years, Neighbor to Neighbor has assisted residents with housing stability, eviction prevention and home ownership. A charitable gift from Broadcom Inc. would be dedicated to COVID-19 eviction
emergency rent assistance.

**New Belgium Bar & Restaurant Relief Fund**
New Belgium Brewing has invested $100K to provide direct financial assistance of $350 per displaced bar, food service, and restaurants employees in Fort Collins. The application platform is up and running and has received over 1,000 requests & eligibility verifications for the emergency cash assistance.

**Poudre School District: Digital access for Income Challenged Families and Students**
Digital access for mobile housing parks; In the last week, PSD placed large-scale mobile hot spots in both Poudre Valley Mobile Home Park, and Harmony Village. Such mobile wi-fi units will be placed in mobile housing parks across the community to ensure robust digital access for income-challenged families and students.

The City will distribute $75,000 of the total gift via three separate grants of $25,000 each to the agencies above: Neighbor to Neighbor, New Belgium Bar & Restaurant Relief Fund and Poudre School District.

**CITY FINANCIAL IMPACTS**

This Ordinance will appropriate $100,000 of unanticipated philanthropic revenue into the General Fund for the transfer of $25,000 to support COVID-related response and relief efforts across City departments, and $75,000 for pass-through distribution.

The funds have been received and accepted per City Give Administrative and Financial Policy.
ORDINANCE NO. 062, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING AN UNANTICIPATED CHARITABLE DONATION TO THE CITY FROM BROADCOM INC.
TO BE USED FOR COVID-19 RELIEF

WHEREAS, Broadcom Inc. has made a generous charitable donation of $100,000 to the City to be used by it to support the critical and expanded needs of Fort Collins residents resulting from the unprecedented national and community crisis caused by the COVID-19 pandemic (the “Pandemic”); and

WHEREAS, Broadcom Inc. has asked that its donation be used by the City in equal amounts of $25,000 for the following four purposes: (i) to fund the City’s efforts across its service areas, departments and programs to address the effects of the Pandemic, to include, without limitation, Adopt-A-Neighbor, Safety and Risk Management, Social Sustainability and providing child care for essential City employees, specifically police and other first responders, (ii) as a City grant to Neighbor to Neighbor to be used by it for emergency rent assistance as needed by Fort Collins’s income-disadvantaged residents because of the Pandemic, (iii) as a City grant to the New Belgium Bar and Restaurant Relief Fund for financial assistance to food service workers displaced from their jobs by the Pandemic, and (iv) as a City grant to the Poudre School District (“PSD”) for it to provide mobile Wi-Fi units throughout Fort Collins to allow its income-disadvantaged students to access the internet for online instruction at home; and

WHEREAS, this appropriation benefits the public’s health, safety and welfare and serves the public purposes of providing the City with financial assistance to help it address the effects of the Pandemic on its essential employees need for childcare services, providing financial assistance to residents unable to pay for housing for reasons related to the Pandemic, providing financial assistance to food service workers without jobs due to the Pandemic and providing PSD with financial assistance to allow it to provide its income-disadvantaged students with Internet access so they can receive online instruction; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council, upon recommendation of the City Manager, to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated from the General Fund and will not cause the total amount appropriated in the General Fund to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year; and

WHEREAS, the City wishes to appropriate the funds donated to it by Broadcom Inc. to be expended by the City and paid to Neighbor to Neighbor, New Belgium Bar & Restaurant Relief Fund and PSD as hereafter provided; and
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated for expenditure from unanticipated charitable revenue in the General Fund the sum of TWENTY-FIVE THOUSAND DOLLARS ($25,000) to support City efforts across its service areas, departments and programs to address the effects of the Pandemic, to include, without limitation, Adopt-A-Neighbor, Safety and Risk Management, Social Sustainability and providing child care for essential City employees, specifically police and other first responders.

Section 3. That there is hereby appropriated for expenditure from unanticipated charitable revenue in the General Fund the sum of TWENTY-FIVE THOUSAND DOLLARS ($25,000) to fund a grant to Neighbor to Neighbor to be used by it in its Emergency Rental Assistance program.

Section 4. That there is hereby appropriated for expenditure from unanticipated charitable revenue in the General Fund the sum of TWENTY-FIVE THOUSAND DOLLARS ($25,000) to fund a grant to the New Belgium Bar & Restaurant Relief Fund program to be used for financial assistance to food service workers displaced by the Pandemic.

Section 5. That there is hereby appropriated for expenditure from unanticipated charitable revenue in the General Fund the sum of TWENTY-FIVE THOUSAND DOLLARS ($25,000) to fund a grant to the Poudre School District for use in its Income Challenged Families and Students program to provide internet access to its students for online instruction.

Introduced, considered favorably on first reading, and ordered published this 21st day of April, A.D. 2020, and to be presented for final passage on the 5th day of May, A.D. 2020.

_______________________________
Mayor

ATTEST:

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City Clerk
Passed and adopted on final reading on the 5th day of May, A.D. 2020.

ATTEST:

__________________________________
Mayor

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City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF

Barb Brock, Natural Areas Financial Coordinator
Zoe Shark, Public Engagement Manager
Ingrid Decker, Legal

SUBJECT


EXECUTIVE SUMMARY

This is coming to Council now because the Natural Areas Department is mandated by ballot to conserve land and funds are needed for a real estate closing on June 30 as well as anticipated closings throughout the year. Reappropriations also will support the completion of two infrastructure projects. One is legally required for water rights and the other is critical to prevent stormwater overtopping of Prospect Road. The proposed reappropriation for critical trail work is seasonally dependent and even more urgent given skyrocketing visitation due to the COVID-19 pandemic. This item appropriates $8,770,000 in prior year reserves in the Natural Areas Fund.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Funding dedicated to the Natural Areas Department (NAD) capital projects, lapses each year if not spent. Unspent funds need to be appropriated into the following year’s budget before they can be used. The purpose of this item is to appropriate $8,770,000 in unspent 2019 funds in the Natural Areas Fund for use in 2020.

Of the total appropriation, $8,400,000 will be used for land conservation. With over $10 million in land acquisitions under negotiation, it is likely that most of these funds specifically for land conservation will be spent in 2020.

Of the total appropriation $300,000 will be used for new essential purposes not included in the Natural Areas 2020 Budget and $70,000 to complete a project started in 2019. These items are described in more detail below.

After this appropriation Natural Areas will have a total fund balance over $10 million for future land conservation, capital replacement, major restoration, and major trail and trail head projects. The fund balance can be used as necessary to cover revenue shortfalls.

The funds for NAD come from the following designated sources of revenue: The City - Open Space Yes! ¼ Cent sales tax; the Larimer County - Help Preserve Open Space ¼ cent sales tax; and, miscellaneous anticipated and unanticipated revenues. All these funds are restricted to the purposes of the Natural Areas

Item # 16 Page 1
Department, including unanticipated revenues which consist generally of income from sales tax revenues, easements, leases or grants.

The prior year reserve funds being appropriated in this Ordinance more specifically are:

- $8,470,000  Unspent 2019 Budgeted Funds – being appropriated for same purpose
- $300,000    Unspent 2019 Funds – being appropriated for new purposes
- $8,770,000  Prior Year 2019 Reserves

The anticipated use of these funds is as follows:

**Land Conservation** - $8,400,000 in unspent funds restricted specifically for land conservation to fund property acquisition efforts per the Natural Areas Master Plan.

**Planning and Special Projects** - $70,000 to finish the installation of water surface area monitoring equipment started in 2019 for administration of a legally binding and required water augmentation plan; and $200,000 to repair and restore riverbank damage at Riverbend Ponds Natural Area in equal partnership with Transportation and Utilities. The project is intended to prevent the Poudre River from breaking out and potentially overtopping Prospect. This essential public safety project is currently under construction in order to be completed prior to the spring runoff and potential flooding; Natural Areas will use these funds to reimburse Utilities for the work it is performing.

**Trails and Visitor Amenities** - $100,000 for reconstructing the Foothills Trail across Maxwell Natural Area per the Foothills Management Plan. This section of the Foothills Trail is heavily used, difficult to maintain, currently rated in poor condition, and in urgent need of reconstruction.

**CITY FINANCIAL IMPACTS**

This Ordinance increases 2020 appropriations in the City’s Natural Areas Fund by $8,770,000. The requested total appropriation of $8,770,000 in the Natural Areas Fund represents 2019 appropriations that were unspent and unencumbered at year-end 2019. These funds are restricted to the purposes of the Natural Areas Department and the $8,400,000 is restricted specifically to land conservation. Natural Areas will have a remaining fund balance over $10 Million for future projects that may be used as necessary to cover revenue shortfalls over the next few years.

**BOARD / COMMISSION RECOMMENDATION**

At its regular meeting on March 11, 2020, the Land Conservation and Stewardship Board voted unanimously, to recommend that City Council approve an appropriation of $10,141,000. However, due to concerns that the COVID-19 emergency will reduce revenues in 2020 and perhaps 2021, staff has chosen to reduce the overall appropriation presented to the LCSB by $1,371,000 primarily for trails and restoration projects that will be delayed to future years as funds are available. *(Attachment 1)*

**PUBLIC OUTREACH**

Natural Areas Funds will be spent in alignment with the Natural Areas Master Plan, which was extensively reviewed by the public prior to its adoption in October 2014.

**ATTACHMENTS**

1. Land Conservation and Stewardship Board minutes, March 11, 2020 (PDF)
Land Conservation & Stewardship Board
March 24, 2019
Minutes Excerpt from meeting March 11, 2020

Re-appropriations

Mark presented the request to City Council to approve the re-appropriation of $10,641,000 in unspent funds and unanticipated revenues in the Natural Areas Fund to fund land conservation, restoration of wildlife habitat, trails and visitor amenities, facility operations and other NAD needs to benefit the residents of Fort Collins.

There was discussion about various monies that were set aside for projects under TVA and Planning and Special Projects. Mark explained there are specific projects those monies will be tied to like parking lot repairs and installation. For example, an additional $100K, in Trails and Visitor Amenities, has been budgeted for a new trail and bridge out at Puente Verde Natural Area. Mark explained NAD is using certain unspent funds from last year, rolling them over to this year.

Ray requested, for the future, a bar graph that demonstrates appropriations for 2019, amount unanticipated, amount requesting for appropriation for 2020 and amount for appropriation in later years.

*Vicky McLane made a motion that City Council approve the proposed 2020 appropriation of prior year, 2019, Natural Area reserves of $10,141,000. David Tweedale seconded the motion. The motion was unanimously approved 7-0.*
ORDINANCE NO. 063, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES FOR NATURAL AREAS
LAND CONSERVATION, LEGALLY REQUIRED WATER RIGHTS
INFRASTRUCTURE AND URGENT TRAIL CONSTRUCTION
NOT INCLUDED IN THE 2020 ADOPTED CITY BUDGET

WHEREAS, the City is committed to preserving natural areas and providing educational, interpretive and appropriate recreational opportunities to the public; and

WHEREAS, Natural Areas Department programming implements open land conservation priorities identified in the City’s Comprehensive Plan by purchasing conservation easements and fee interests in key natural areas, community separators, or other open lands; providing stewardship for lands purchased; and developing trails and interpretive features for public use; and

WHEREAS, the Natural Areas Department is funded primarily through the collection of City Open Space - Yes sales and use tax revenue, as well as revenues from the Larimer County Help Preserve Open Space sales and use tax, investment earnings, and other miscellaneous revenues deposited in the Natural Areas Fund; and

WHEREAS, Article V, Section 11 of the City Charter requires all appropriations unexpended or unencumbered at the end of the fiscal year to lapse to the applicable general or special revenue fund, except appropriations for capital projects and federal or state grants, which do not lapse until completion of the capital project or expiration of the respective grant; and

WHEREAS, the City Manager has recommended the appropriation from prior year reserves in the Natural Areas Fund of a total of $8,770,000, comprised of unspent and unencumbered appropriations from 2019, to be used for land conservation, installation of monitoring equipment for administration of a legally binding and required augmentation plan, repair of riverbank damage to assist in flood control, and reconstruction of the Foothills Trail; and

WHEREAS, this appropriation benefits public health, safety and welfare of the citizens of Fort Collins and serves the public purpose of supporting Natural Areas conservation activities and projects; and

WHEREAS, Article V, Section 9 of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated; and

WHEREAS, the City Manager has recommended the appropriation described herein and determined that this appropriation is available and previously unappropriated in the Natural Areas Fund and will not cause the total amount appropriated in the Natural Areas Fund
to exceed the current estimate of actual and anticipated revenues to be received in that fund during this fiscal year.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That there is hereby appropriated from prior year reserves in the Natural Areas Fund the sum of EIGHT MILLION SEVEN HUNDRED SEVENTY THOUSAND DOLLARS ($8,770,000) to be used for land conservation, special projects, and trail construction, to benefit the residents of the City.

Introduced, considered favorably on first reading, and ordered published this 21st day of April, A.D. 2020, and to be presented for final passage on the 5th day of May, A.D. 2020.

ATTEST:

Mayor

____________________
City Clerk

Passed and adopted on final reading on the 5th day of May, A.D. 2020.

ATTEST:

Mayor

____________________
City Clerk
AGENDA ITEM SUMMARY
April 21, 2020

STAFF

Caroline Mitchell, Environmental Planner
Judy Schmidt, Legal

SUBJECT

First Reading of Ordinance No. 064, 2020, Amending the Code of the City of Fort Collins to Delay the December 31, 2020, Implementation Date for Business and Multi-Family Recycling Requirements Included in the Community Recycling Ordinance.

EXECUTIVE SUMMARY

The purpose of this item is to delay the implementation date of the business and multi-family recycling requirement in the Community Recycling Ordinance from December 31, 2020, to June 30, 2021, due to impacts of the COVID-19 response.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

The Community Recycling Ordinance (CRO) was adopted in September 2016. Two elements of the CRO have already been successfully implemented: (1) all haulers now offer optional seasonal weekly curbside collection of yard trimmings for an extra fee, and (2) all grocers now have collection service for food scraps to be composted.

The remaining element of the CRO to be implemented is the requirement that all trash haulers provide recycling services to their business and multi-family customers unless the customer has a variance on file from the City. This requirement was to take effect by December 31, 2020.

Rolling out recycling to business and multi-family customers involves additional staff time and equipment from trash/recycling haulers, time from businesses and multi-family complexes to train and educate about recycling and may increase the service cost for some locations. All of these are challenging during this time of COVID-19 response.

In order to allow trash/recycling haulers, businesses and multi-family complexes to focus on providing their core services during the COVID-19 response, staff recommends delaying the implementation deadline from December 31, 2020, until June 30, 2021.

PUBLIC OUTREACH

If adopted, staff would conduct public outreach to notify the community of the delay.
ORDINANCE NO. 064, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS
TO DELAY THE DECEMBER 31, 2020, IMPLEMENTATION DATE
FOR BUSINESS AND MULTI-FAMILY RECYCLING REQUIREMENTS
INCLUDED IN THE COMMUNITY RECYCLING ORDINANCE

WHEREAS, the City of Fort Collins is threatened with serious injury and damage,
consisting of widespread human and economic impact caused by the Novel Coronavirus 2019
(COVID-19); and

WHEREAS, the City and the Larimer County Department of Public Health and
Environment, state officials, Colorado State University and the Poudre School District are
cooperatively working to limit community spread and slow the transmission of COVID-19; and

WHEREAS, due to the increasing incidence of COVID-19 in the general population, the
World Health Organization designated the spread of COVID-19 as a worldwide pandemic; and

WHEREAS, on March 10, 2020, Governor Polis issued a Declaration of a Disaster
Emergency for the State of Colorado and on March 13, 2020 the President of the United States
declared a National Emergency; and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the
life, health, safety and property of the citizens of the City and persons conducting business
therein, and in order to attempt to minimize the loss of human life and the preservation of
property, the City Manager, as the Director of the City’s Office of Emergency Management,
proclaimed a “local emergency” in accordance with Section 2-671(a)(1) of the City Code and
activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the City Council has, with its adoption of Resolution 2020-030 extended the
City Manager’s proclamation of local emergency; and

WHEREAS, on September 20, 2016, City Council adopted Ordinance No. 109, 2016
(referred to as the Community Recycling Ordinance) to further promote the recycling of solid
wastes for the purpose of enhancing the recovery of valuable natural resources, extending the life
the Larimer County Landfill, and furthering the City’s goals and objectives regarding reduction
of waste and generation of greenhouse gases; and

WHEREAS the Community Recycling Ordinance required licensed solid waste
collectors to add minimum recycling service to the solid waste collection service provided to
existing multi-family and commercial customers not receiving recycling service as of December
3, 2016 (unserved customers) to one hundred (100) percent of such unserved customers by
December 31, 2020; and
WHEREAS, the COVID-19 emergency has created significant economic impacts to the waste and recycling industry, including the solid waste collectors licensed to operate in the City of Fort Collins; and

WHEREAS, Council has determined that in order to protect the health, safety and welfare of the residents of the City, including but not limited to the economic and physical health and safety of the community, it is necessary and appropriate to extend the December 31, 2020 deadline under the Community Recycling Ordinance to serve one hundred (100) percent of unserved business and multi-family customers for an additional six months to enable licensed collectors to focus on their core service delivery and to maintain a continuing level of solid waste collection service to residents of the community in these challenging economic times.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 15-413(b)(3) of the Code of the City of Fort Collins is hereby amended to read as follows:

(b)  On-site collection—Multi-family and commercial.

. . .

(3)  Commencing January 1, 2017, each solid waste collector licensed by the City shall provide to new and existing multi-family and commercial customers (and other customers receiving solid waste collection services through a communal system of waste collection) as a part of any solid waste collection services provided by such collector, the minimum recycling service calculated under Subsection 15-413(b)(2) in accordance with the schedule set forth in Subsection 15-413(b)(3). Each solid waste collector licensed by the City must add minimum recycling service to the solid waste collection service provided to existing multi-family and commercial customers not receiving recycling service as of December 31, 2016 ("unserved multi-family and commercial customers") in accordance with the following schedule:

a.  by December 31, 2018, forty (40) percent of its unserved multi-family and commercial customers; and

b.  by June 30, 2021 one hundred (100) percent of its multi-family and commercial customers.

Thereafter, the cost for minimum recycling service must be billed in addition to the cost of solid waste collection service for all multi-family and commercial customers. The charge for both such services may be itemized separately for billing purposes but shall not be reduced to exclude the cost of minimum recycling service unless a variance is granted in accordance with Subsection 15-413(b)(3).

. . .
Introduced, considered favorably on first reading, and ordered published this 21st day of April, A.D. 2020 and to be presented for final passage on the 5th day of May, A.D., 2020.

__________________________________
Mayor

ATTEST:

_____________________________
City Clerk

Passed and adopted on final reading on the 5th day of May, A.D. 2020.

__________________________________
Mayor

ATTEST:

_____________________________
City Clerk
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Erin Shanley, Broadband Marketing Manager
Colman Keane, Broadband Director
Cyril Vidergar, Legal

SUBJECT
Resolution 2020-037 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, the City of Loveland, and the Town of Estes Park for Shared Broadband Technical and Network Support Services.

EXECUTIVE SUMMARY
This item is coming to Council at this time due to the critical importance and timing for establishing a working technical support call center for Estes Park and Loveland.

The purpose of this item is to consider an intergovernmental agreement (IGA) for shared broadband technical and network support services between the City of Fort Collins, Loveland, Estes Park and additional Colorado governmental entities. This IGA is the second step in arranging for such shared services currently operated by the City for its own benefit. Completion of the IGA to share these services will provide revenue to partially support those services benefitting the Fort Collins Connexion.

STAFF RECOMMENDATION
Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION
In 2019, Fort Collins, Loveland and Estes Park (the “Parties”) entered into intergovernmental agreements to share access to regional and national telecommunications data facilities with sufficient capacities and speeds and to transport data between each Party’s broadband network and interstate and international telecommunications networks (“Shared Access IGA”).

In addition to the Shared Access IGA, the Parties now desire to share access to regional telecommunications technical and network support resources. This access will include a technical support call center, with sufficient capacity and skilled personnel, to resolve customer support issues on each entity’s broadband and telecommunications networks, and to otherwise meet each entity’s technical and network support commitments to its respective customers.

Fort Collins designed and is staffing a technical support call center and network support resources for City broadband operations (Fort Collins Connexion). The Parties have determined each will conserve resources by temporarily sharing use of such call center and network support, rather than each entity independently building and staffing duplicative facilities. Additional staff and facilities funded by these agreements allows for 24/7, 365 coverage for all Parties included in this agreement at significant cost savings to the Parties.
CITY FINANCIAL IMPACTS

This IGA reduces the City’s total financial impact to operate a call center for Fort Collins Connexion customers by sharing those costs with other supported municipalities. In the first year of the IGA, call center and network support operating costs will be split evenly among the three signatories, i.e., 33.3% payable by each. In subsequent years, the IGA contains a pro rata formula to share costs proportionately based on total customers supported on each municipal broadband network.
RESOLUTION 2020-037
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY, THE CITY OF LOVELAND,
AND THE TOWN OF ESTES PARK FOR SHARED BROADBAND
TECHNICAL AND NETWORK SUPPORT SERVICES

WHEREAS, the City of Fort Collins ("City"), the City of Loveland ("Loveland"), and
Town of Estes Park ("Estes") (collectively, "the Municipalities") are, as a legal matter, each
independently authorized to acquire and operate independent municipal broadband utility
facilities and networks; and

WHEREAS, the City is a Colorado home-rule municipality that has undertaken the
establishment and operation of a municipal broadband utility known as Fort Collins Connexion;
and

WHEREAS, in 2019, the Municipalities each independently established local retail
model broadband networks relying on regional partnerships with other governmental entities,
broadband utility enterprises, and owners of fiber optic cable, capitalizing on regional municipal
broadband opportunities available to the Municipalities; and

WHEREAS, on June 21, 2019, the Fort Collins City Council approved Resolutions 2019-
072 and 2019-073, authorizing intergovernmental agreements to provide transport and access
services to Loveland and Estes using the City’s contracted rights to use third-party telecommunication
networks to route data to interstate and international telecommunications networks; and

WHEREAS, in addition to benefits available through sharing transport and access
services, the Municipalities’ broadband enterprise staffs have identified a need access to shared
regional broadband technical and network support services (Technical and Network Support
Services), with sufficient capacity to provide technical support and initiate local service requests
for all three Municipalities’ broadband networks; and

WHEREAS, the City has negotiated the acquisition of facilities and personnel to provide
Technical and Network Support Services and the Municipalities’ respective staffs have
determined that sharing such resources, rather than each independently investing in similar
facilities and personnel, will provide efficiencies and conserve resources for all; and

WHEREAS, in light of the cost savings and potential future benefits of jointly provided
Technical and Network Support Services, the Municipalities desire to enter into the
Intergovernmental Agreement for Shared Broadband Technical and Network Support Services
attached hereto as Exhibit “A” (the “IGA”) and incorporated by this reference; and

WHEREAS, as Colorado governmental entities, the Municipalities are each authorized,
pursuant to C.R.S. §29-1-203, to cooperate or contract with one another to acquire or provide
any government function, service, or facility lawfully authorized to each; and
WHEREAS, the City Council has determined that the IGA is in the best interests of the City, its citizens and ratepayers to accomplish the purposes set forth therein, and that the City Manager should be authorized to execute the IGA between the City, Loveland and Estes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals above.

Section 2. That the City Council hereby approves the IGA and authorizes the City Manager, in consultation with the City Attorney and consistent with this Resolution, to finalize the IGA and its exhibits and to execute it on behalf of the City’s behalf, in substantially the form attached hereto as Exhibit “A”.

Section 3. That in addition, the City Manager is authorized, during the term of the IGA and in consultation with the City Attorney, to approve and execute such amendments to the IGA as the City Manager determines to be reasonably necessary and appropriate to: (a) protect the City’s interests or to effectuate the purposes of this Resolution; (b) provide a benefit to the City; and (c) limit the City’s financial obligation to expenditure of funds already appropriated and approved by Council or conditioned upon such appropriation.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of April, A.D. 2020.

___________________________________
Mayor

ATTEST:

___________________________________
City Clerk
INTERGOVERNMENTAL AGREEMENT FOR
SHARED BROADBAND TECHNICAL AND NETWORK SUPPORT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT FOR SHARED BROADBAND TECHNICAL AND NETWORK SUPPORT SERVICES ("Agreement") is made and entered into this ____ day of __________, 2020, by and between the CITY OF FORT COLLINS, COLORADO, a home-rule municipality ("Fort Collins") and Loveland, Estes Park and those additional Colorado governmental entities listed on Exhibit A ("Affiliates") (collectively the “Parties”).

WHEREAS, prior to the date of this Agreement, voters of Fort Collins and the Affiliates, respectively, approved legally required ballot measures at general elections, authorizing each entity to acquire and operate independent broadband utility facilities and networks; and

WHEREAS, Fort Collins is a Colorado home-rule municipality which has undertaken the establishment and operation of a municipal broadband utility; and

WHEREAS, each Affiliate is a Colorado governmental entity, as further described on Exhibit A, which has undertaken the establishment and operation of a broadband utility; and

WHEREAS, as Colorado governmental entities, the Parties are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to acquire or provide any government function, service, or facility lawfully authorized to each; and

WHEREAS, to provide reliable, competitive, and cost-effective broadband utility services, the Parties desire to collaborate with neighboring governments and broadband enterprises, to leverage resources and efficiencies, including existing fiber optic connections between the Parties, for the benefit of their respective residents and ratepayers; and

WHEREAS, prior to the date of this Agreement, Fort Collins and several of the Affiliates entered into an agreement regarding shared access to regional and national telecommunications data facilities with sufficient capacities and speeds, to transport data between each city’s broadband network and interstate and international telecommunications networks ("Shared Access IGA"); and

WHEREAS, in addition to the Shared Access IGA, the Parties desire to share access to regional telecommunications technical and network support resources, with sufficient capacity and skilled personnel, to resolve customer support issues on each entity’s broadband and telecommunications networks, and to otherwise meet each entity’s commitments to its respective customers; and

WHEREAS, Fort Collins designed and is staffing telecommunications technical support call center data facilities, and the Parties have determined each will conserve resources by temporarily sharing use of such resources, rather than each entity independently building and staffing duplicative facilities; and

WHEREAS, in light of the current cost savings and potential for future coordination and cost saving through this joint operational opportunity, the Parties wish to coordinate efforts to
establish and maintain sufficient telecommunications technical and network support facilities and staff in accordance with the terms of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

1. **Definitions.**

As used in this Agreement, the terms below shall have following meanings:

“Call Center” and “Network Operations Center” (“NOC”) is a business office designed to handle a large volume of telephone calls, especially for taking orders and providing computer technical support services, including Tier 1 services as described in Attachment I, attached hereto.

“Customer Support Representative” (“CSR”) is a utility system professional delivering non-technical customer service, enrollment, service connection/disconnection ordering, monthly payment, and sales related services.

“Employment Action” includes hiring, firing, performance evaluations, pay rates and benefits (including holidays and other time off), and disciplinary action.

“Engineering Services” includes system support services delivered through a network engineer or other technology professional skilled in maintaining the connectivity of networks in terms of data, voice, calls, videos and wireless network services, and specifically including Tier 3 services as described in Attachment I, attached hereto.

“Enterprise Business” includes businesses that typically have unique architecture or service level requirements that are negotiated with their provider. This may require non-standard levels of services or support.

“Medium Business” includes businesses that typically utilize standardized equipment, pricing plans that include more business-related services and products, and require a higher level of technical support for their business needs.

“Network Engineer” is a technical support professional who focuses on the maintenance of an existing network, whose services and training may extend from testing and troubleshooting problems to regular maintenance, and who contributes high-level support such as strategic planning of network upgrades and high-level network performance analyses, including Tier 3 services as described in Attachment I, attached hereto.

“Network Support Services” includes system support services focused on the maintenance of an existing corporate network, from testing and troubleshooting problems to regular maintenance, specifically including Tier 2 support services as described in Attachment I, attached hereto.
“OSS/BSS” is an integrated computer network designed to deliver “operational” and “billing” services, including enrollment, service connection/disconnection orders, and monthly payment tracking.

“Residential Customers” includes non-commercial customers who obtain service at a residential location.

“Small Business” includes businesses that typically utilize standardized equipment with standardized pricing plans, and require basic technical support for their business needs.

“Technical and Network Support Services” includes Tier 1, Tier 2, and Tier 3 services, as described in Attachment I, attached hereto.

“Technical and Network Support Costs” includes all costs paid to furnish and deliver Technical and Network Support Services, as described in Attachment I, attached hereto.

“Technical Support Representative” (“TSR”) is a technology professional staffing the NOC who is skilled in navigating and maintaining connectivity of network services delivering Tier 1 technical support services.

2. **Term.**

   a. **Term of Agreement.** The Term of the Agreement is from the date first written above until ten years after Fort Collins begins delivery of regional Technical and Network Support services or until this Agreement is terminated, as set forth in b. and c. below (the “Term”).

   b. **Notice Prior to Expiration of Term.** At least one hundred and eighty (180) days prior to the expiration of this Agreement, Fort Collins’ Broadband Executive Director and each Affiliate’s broadband service director, or designee, shall meet to discuss potential extension and/or amendment of this Agreement and/or integration of the separate Shared Access IGA into this Agreement. Nothing set forth in this Section 2 shall be deemed to delay or otherwise extend the scheduled expiration of the Term.

   c. **Termination; Removal.** Any party may voluntarily terminate its participation and obligations under this Agreement for convenience upon providing one hundred eighty (180) day written notice to the other parties. Any party may be removed by unanimous written agreement of the other parties upon: (a) unremedied breach of any material term herein or in any attached document after ninety (90) days written notice to breaching party or (b) the failure of the party’s broadband utility to function as a going concern or operate in the ordinary course for more than sixty (60) days.

3. **Fort Collins Call Center.** The Parties shall design, construct, and operate the network facilities set forth in Attachment I during the Term. Specifically, Fort Collins shall design, construct, and staff Technical and Network support facilities as described in this Agreement,
the costs for which are to be shared by the Parties according to Attachment II, attached hereto and incorporated by this reference. The Technical and Network support facilities Fort Collins shall build, lease or otherwise acquire in furtherance of this Agreement shall meet the following minimum specifications:

   a. Be of sufficient capacity and quality for the Parties to each provide service to their broadband customers for the Term;

   b. Provide sufficient expertise as to the configuration and practices of the Parties’ broadband networks to their broadband customers, as agreed upon by the Parties.

   c. Initial Technical and Network Support services provided through Fort Collins shall include those set forth in Attachment I following functional components and administrative specifications.

   d. And as further described under “Services” and “Equipment” portions of Attachment I, attached hereto and incorporated by this reference.

4. Payment for Technical and Network Support. Fort Collins shall directly pay for all Technical and Network Support costs, subject to partial recovery of those costs from Affiliates, as set forth below and further provided in Exhibit A, Attachments II and III, attached hereto and incorporated by this reference.

   a. During the Term, each Affiliate shall pay Fort Collins for Technical and Network Support Costs in advance on a monthly basis, beginning the first full month following Fort Collins’ commencement of regional Technical and Network Support Services as described herein.

   b. The Parties’ respective share of Technical and Network Support Costs shall be determined as follows:

      i. Years 1 through 3 of the Term, each Affiliate shall pay a pro-rata amount of Technical and Network Support Costs based on the anticipated number of user accounts on the Affiliate’s broadband network, relative to the total number of user accounts with access to Technical and Network support facilities during the period, as initially set forth in Exhibit A, Attachments II and III; and

      ii. Years 4 through expiration of the Term, starting in the thirty-fifth month, between November and December of each calendar year during the Term, the anticipated number of user accounts on each party’s broadband network will be adjusted for the next year. By November 1, each Affiliate shall submit to Fort Collins an updated estimate of user accounts it will serve for the next year. Such estimate may be refined until December 1, at which time each estimate shall be set and used to schedule pro-rata payments due under this Section 4 during the next year.
iii. The yearly cost sharing above is based on projections for the following year and assumes the average support services per customer required for each party to be roughly equal. These projections may turn out to be different than actuals and business decisions or demographics may result in more or less time spent per customer. Beginning in January of Year 5 (i.e. the forty-ninth month of the Term) of this Agreement a true up process shall be performed yearly to ensure the Parties equitably share costs:

1. By January 31, each Affiliate shall submit to Fort Collins the number of actual user accounts served by the Affiliate’s broadband network during the prior calendar year along with the percentage difference from the original projection, as determined on December 31.

2. If an Affiliate’s actual number of user accounts for the period differs from the projection used to calculate its pro-rata payments in the period by more than 10%, the Affiliate shall provide notice to Fort Collins of the over or underpayment. The Parties will then engage in a review by February 15 and proportionally adjust payments and credits due for Technical and Network Support Services for the following three pro-rata monthly payments to correct such over or underpayment, unless the Parties mutually agree to a different reconciliation period.

5. Access to Technical and Network support services.

a. In each party’s sole discretion, each party may employ, contract or otherwise acquire additional Technical and Network support resources for its own use or the use of any other party with whom Fort Collins and/or any Affiliates wishes to collaborate. However, each party’s financial liability under this Agreement shall only extend to Technical and Network Support Costs as provided in Section 4.

b. The Parties agree to use good faith efforts to ensure their respective access to and use of Technical and Network Support resources do not unreasonably interfere with any other party’s reasonable access and use of such service.

c. Fort Collins agrees to treat the needs of all Parties, including itself, equally with regard to responding to calls, alarms, network interruptions, and other service needs contemplated by this Agreement. Priority shall be based on a “first come, first serve” principle and based on the severity of the problem, with critical problems taking precedence regardless of the origin. The process for escalating calls and determining priority shall be outlined in a written policy and procedure document maintained by Fort Collins and reviewed and approved quarterly for the first twelve months of the term of this Agreement and at least annually thereafter by the Parties.

d. All Parties will have access to a method to monitor priority of issues being addressed by Fort Collins.
e. Fort Collins agrees to use good faith efforts to ensure minimal Service Level standards (“SLA Terms”) are met as such SLA Terms are set forth in Attachment I attached hereto and incorporated by this reference.

f. The Affiliates recognize their respective broadband network users will access the Technical and Network Support Services through facilities and equipment owned by Fort Collins, as the party with immediate obligation to construct and staff regional Technical and Network Support facilities. The Affiliates also recognize they shall not have direct control over such facilities or service calls received by such facilities unless or until service calls are escalated to technical service personnel directly employed by a party other than Fort Collins. Escalation shall occur pursuant to administratively adopted protocols approved by respective broadband service director for each party.

g. The Parties agree to maintain system versions in compliance with required vendor support agreements, and to stay within two versions of the most current software version of all supported software.

h. The Parties agree to keep and maintain their respective individual fiber networks in good condition. Any physical fiber network issues are outside the scope of this Agreement unless covered under mutual aid provisions.

6. Fort Collins Call Center direction.

a. Non-management Call Center personnel. TSRs, NOCs and Network Engineers, as defined in Section 1, shall be employed under this Agreement.

b. Training and Communication to Affiliates. Fort Collins agrees to maintain adequate training for all shared staff with regard to individual parties’ systems, customers, and policies so that staff can adequately address problems in a reasonable period of time. Fort Collins agrees that it will provide feedback to an Affiliate if the Affiliate’s processes, programs, or services are found to be increasing call volumes or call times so that the Affiliate can determine if changes need to be made or properly budget for the additional resources being used.

c. Call Center Manager. The Fort Collins Call Center, through a Call Center manager (“Call Center Manager”) employed by Fort Collins, shall coordinate and consult with the respective Affiliates’ broadband directors or designees as needed to provide Call Center Services for the Parties’ broadband systems.

i. Such directors or designees may directly request day-to-day work activities of the Call Center Manager, as provided in administrative standards developed by the Parties; however, the Fort Collins Broadband Executive Director is solely authorized to supervise and take all employment actions
related to the Call Center Manager in accordance with Fort Collins city policies. The Fort Collins Broadband Executive Director, or designee, will seek input from the Affiliates’ respective broadband directors, or designees, who engage in day-to-day activities with the Call Center Manager; however, the Fort Collins Broadband Executive Director has sole supervisory authority and responsibility for the Call Center Manager.

ii. The Call Center Manager or designee may direct the day-to-day activities of Call Center employees as necessary to provide Technical and Network Support Services, including coordination with local technical and business services personnel employed by each party, serving the local broadband networks in those jurisdictions. However, each party shall be responsible and solely authorized to take employment action related to employees of that party which may also be recommended by the Call Center Manager. While the Affiliates may seek input of the Call Center Manager, who may direct the day-to-day activity of another party’s employee, each Affiliate has sole supervisory authority and responsibility for its employees. The Affiliates shall be entitled to provide formal feedback on an annual basis to Fort Collins regarding the Call Center Manager's performance.

iii. The Parties acknowledge the Call Center Manager may make recommendations on how the Parties can more efficiently utilize their respective broadband system resources, including equipment, infrastructure and employees. The final decision regarding any changes to any party’s resources, including equipment, infrastructure and employees, belongs solely to the party with ownership of such resources.

1. Call Center Manager Resources. The Call Center Manager may use Fort Collins resources to provide recommendations that may impact the Affiliates’ equipment, infrastructure and employee resources, such as making recommended employee schedule and recommended engineering priority changes.

2. Fort Collins will not be liable for any consequences resulting from any Affiliate’s actions accepting such recommendations, except as otherwise provided in this Agreement.

iv. Replacement of the Call Center Manager.

1. By Request of the Affiliate. Should any Affiliate be unsatisfied with the performance of or desire replacement of the Call Center Manager. The Affiliate shall notify Fort Collins in writing and the Parties shall negotiate in good faith to reach agreement as to appropriate corrective action. Fort Collins shall also be responsible for the replacement of the Call Center Manager or appointment of a new or interim Call Center Manager, as may be required by the Agreement.
or upon written agreement of the Parties.

2. **By Fort Collins or By Reason of Unavailability.** Should the Call Center Manager be removed by Fort Collins for any reason or should the Call Center Manager resign or otherwise be unavailable to provide the Technical and Network Support Services, Fort Collins agrees to provide a replacement Call Center Manager as soon as practicable. Fort Collins agrees to provide Technical and Network support to the Affiliates to maintain effective local broadband network operations and the Parties shall only pay for costs incurred by Fort Collins to maintain the effective Technical and Network Support operations until a replacement Call Center Manager is found.

   d. **Overtime.** The Parties agree none of their employees who may have authority to direct the day-to-day operations of employees of another party hereto will require such employees to work overtime, except in an emergency. However, the employing party will have sole authority as to total hours their employees will work.

   e. **Communications and Dispute Resolution.** Each party shall designate a representative as a first point of contact for communications between the Parties regarding the Call Center personnel and/or Technical and Network Support Services. The Affiliates agree to provide regular communications and feedback to Fort Collins regarding the Call Center personnel performance of the Technical and Network Support Services. Should a dispute arise between the Parties, these representatives shall negotiate in good faith to reach a resolution. If a resolution cannot be reached, the issue shall be elevated to the responsible Director, or designee, in the concerned governmental entity and the Fort Collins Broadband Executive Director. If a resolution cannot be reached at this level, the issue shall be elevated to the respective city managers/administrators.

7. **Sharing Information Regarding Technical and Network Support Services.** In order to ensure consistent and effective operation of each city’s broadband network, the Parties agree to share with each other all useful information regarding the Technical and Network support Services, as necessary and permissible in the discretion of Fort Collins’ Broadband Executive Director and respective Affiliate broadband service directors.

   Notwithstanding the above, the Parties agree to otherwise treat as confidential (a) all information owned by and/or obtained from the other party, or that relates to the business of the other party, or that is used by the other party in carrying on business, and (b) all information that is proprietary to a third party (including the other city’s customers and suppliers). The Parties shall not disclose such information to any person not having a legitimate need-to-know and approved by the other party, nor use such information in any form to obtain an economic or other benefit for itself, or any third party. If such information is required by law, regulation or court order to be disclosed, the subject party’s disclosure shall not be greater than that which is required, and in the event of such disclosure, the disclosing city shall furnish a copy of this Agreement to anyone requiring such disclosure.
and promptly advise the other city in writing of each required disclosure.

8. **Notices.** Written notices required under this Agreement and all other correspondence between the Parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested or as updated in Exhibit A:

If to Fort Collins: Colman Keane, Broadband Executive Director  
Fort Collins Connexion  
215 N. Mason Street  
PO Box 580  
Fort Collins, CO 80521  
ceane@fcgov.com  
970-224-6001

With copies to: Fort Collins City Attorney’s Office  
300 LaPorte Avenue  
PO Box 580  
Fort Collins, CO 80521  
970-221-6520

If to Loveland: Brieana Reed-Harmel, Municipal Fiber Manager  
City of Loveland, Water and Power  
200 Wilson Avenue  
Loveland, CO 80537  
Brieana.Reed-Harmel@cityofloveland.org  
970-962-3592

With copies to: Loveland City Attorney’s Office  
Broadband Matters  
500 East 3rd Street, Suite 330  
Loveland, CO 80537

If to Estes Park: Estes Park, Utilities Director  
Town of Estes Park  
P.O. Box 1200  
Estes Park, CO 80517

With copies to: Town Attorney’s Office  
Town of Estes Park  
P.O. Box 1200  
Estes Park, CO 80517

9. **Amendment**

   a. Except as provided below, approval of amendments to this Agreement will be
managed according to the respective approval policies of each Party.

b. The original parties (Fort Collins, Loveland, and Estes Park) expressly agree to allow mutual administrative approval of amendments at any time to the participating Parties list and notice contacts in Exhibit A; the Service, Equipment and Service Level descriptions in Attachment I; and the Staffing Plan and Proportionate Cost tables in Attachment III. Any change to the Cost Sharing formula in Attachment II or the addition of any other attachment or exhibit to this Agreement shall require approval as set forth in subsection 9.a.

10. Mutual Aid

a. Extraordinary Events. The Parties agree in case of an extraordinary event, as determined by the Fort Collins City Manager and the respective city manager/administrator in one of the Affiliates, (the "Extraordinary Event"), a party may request, and a responding party may provide, network support. Extraordinary Events can include, but are not limited to emergencies, natural disasters, special events, or any other event that may increase the demand of broadband services.

b. Reimbursement of Extraordinary Events. With respect to each Extraordinary Event, the requesting party agrees to provide appropriate reimbursement for the responding party regarding all costs and expenses incurred by the responding party in supporting the Extraordinary Event, unless otherwise agreed in writing by each party, provided, however, that the party providing network support for the Extraordinary Event maintains auditable records.

11. No Recruitment. During the Term and for six (6) months thereafter, without the prior written consent of the other Party, no Party shall directly solicit or entice away (or seek or attempt to entice away) from the employment of Fort Collins or any Affiliate any person employed (or any person who has been so employed in the preceding six (6) months) by another Party in the provision or receipt of any Tier One or Tier Two services described in this Agreement. For the avoidance of doubt, this Section 11 shall not apply to unsolicited responses by employees to general recruitment advertising.

12. General Terms

a. Subject to Appropriation; No Multiple Year Obligation. It is understood and agreed by the Parties that any obligation of Fort Collins or any Affiliate hereunder, whether direct or contingent, shall extend only to funds appropriated by the Parties’ respective governing bodies and encumbered for the purpose of this Agreement. The Parties do not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years. Likewise, this Agreement shall not create a multiple-fiscal year direct or indirect debt or financial obligation of either Fort Collins or any Affiliate.
b. **Good faith negotiate/mediate.** In the event of any dispute arising out of or in connection with performance under this Agreement, the Parties shall negotiate in good faith. If such negotiations are not successful in resolving the dispute, the dispute will be submitted to proceedings under the Colorado Mediators & Arbitrators™ (COMA) Mediation Rules or other rules agreed to by the Parties.

c. **Employee Status.** Notwithstanding the managerial obligation described in Section 6 above, all employees of each governmental entity who perform any services in relation to this Agreement shall remain the employees solely of the governmental entity employing them to perform such services and not of any other party hereto. No party shall obtain, by virtue of paying or being reimbursed for any personnel costs, any direct control over the management, scheduling or facilities provided to staff at any Technical and/or Network support facility operated by another party.

d. **Governmental Immunity Act.** No term or condition of this Agreement shall be construed or interpreted as a waiver, by any party, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq.

e. ** Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the Parties.

f. **No Third Party Beneficiary.** The Parties understand and expressly agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any third person. It is the express intention of the Parties that any person other than the signatory hereto receiving benefits under this Agreement shall be deemed to be an incidental beneficiary only.

g. **Severability.** In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

h. **Headings.** Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

i. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
j. Legal Constraints. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States and imposed upon Fort Collins by its Charter and Municipal Code, and, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall either of the parties hereto exercise any power or take any action which shall be prohibited by applicable law.

k. Counterparts. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement.

l. Electronic Signature. This Agreement may be executed by electronic signature in accordance with C.R.S. § 24-71.3-101 et seq.

[Signature appear on the following page]
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

City Council for CITY OF FORT COLLINS, COLORADO

By: _____________________________
    Mayor

APPROVED AS TO FORM:

By: _____________________________
    Assistant City Attorney

ATTEST:

By: _____________________________
    City Clerk

CITY OF LOVELAND, COLORADO

By: _____________________________
    City Manager

APPROVED AS TO FORM:

By: _____________________________
    Assistant City Attorney

ATTEST:

By: _____________________________
    City Clerk

TOWN OF ESTES PARK, COLORADO

By: _____________________________
    Mayor

APPROVED AS TO FORM:

By: _____________________________
    Town Attorney

_______________________________
EXHIBIT A

Affiliates:

• CITY OF LOVELAND, COLORADO a home-rule municipality ("Loveland") with principal offices at 500 East 3rd Street Loveland, Colorado 80537

• TOWN OF ESTES PARK, COLORADO, a statutory municipality ("Estes Park") with principal offices at 170 MacGregor Ave., P.O. Box 1200, Estes Park 80517
Attachment I

A. Services

A combination of TSRs and NOCs will support operations for all Parties 24 hours per day every day during the Term of the Agreement. Support shall be provided based on the following schedule:

- Network Engineer and/or NOC staff will provide after-hours maintenance services from Midnight to 6 am Sunday through Thursday.

- Network Engineering staff will provide support from 8 AM to 5 PM Monday through Friday and shall be on-call, regardless of day and time, for emergencies.

The following support services shall be provided:

- Technical Support Services (TIER 1):
  - Assisting residential & small business customers with internet connectivity issues;
  - Assisting residential & small business customers with managed wifi services;
  - Assisting residential & small business customers with basic phone service issues;
  - Assisting residential & small business customers with video service issues;
  - Escalating unsolved issues to NOC and Engineering Groups;
  - Referring customer service or sales related issues to CSRs or commercial sales;
  - Creating dispatch jobs in the OSS/BSS system;
  - Using and maintaining documentation & configuration in administrative systems.

- Network Operations Services (TIER 2):
  - Handling overflow issues from Technical Support Services;
  - Monitoring network performance and availability;
  - Supporting, managing, and performing network and software upgrades;
  - Troubleshooting and addressing network performance issues;
  - Assisting medium business and enterprise business customers with internet connectivity issues;
  - Assisting medium business and enterprise business customers with managed wifi services on agreed platforms;
  - Assisting medium business and enterprise business customers with phone service and hosted pbx (private branch exchange) issues;
  - Assisting medium business and enterprise business customers with video service issues;
  - Referring customer service or sales related issues back to CSRs or commercial sales;
  - Creating dispatch jobs in the OSS/BSS system;
  -Escalating unsolved issues to Engineering Services personnel;
  - Using and maintaining documentation & configuration in administrative systems.
- Network Engineering Services:
  - Assisting in the design and implementation of network architecture upgrades;
  - Monitoring network performance and availability;
  - Support, manage, and perform agreed upon network and software upgrades;
  - Troubleshoot and address network performance issues;
  - Referring customer service or sales related issues back to CSRs or commercial sales;
  - Creating dispatch jobs in the OSS/BSS system;
  - Escalating unsolved issues to Vendors;
  - Use and maintain documentation & configuration in administrative systems.

B. Equipment

Fort Collins shall provide network operations and technical support services for all Parties 24 hours per day every day during the Term of this Agreement for the equipment described below:

- Nokia EAS and associated equipment and databases;
- The Nokia 7750 DR front end IP unicast and multicast routing as well as subscriber management functionality. The 7750 DR serves as the aggregation point for the access 7360 ISAM GPON OLT;
- The Access Network (AN) consisting of PON network, Layer 2 VLAN Network, based on OLTs, ONTs, Switches, and Routers;
- Administrative ISP Services including managing DNS services, Web services, Cloud Based eMail Services;
- The Internet connectivity provided by redundant ISP connections to the 7750 DR routers;
- Voice services provided by a Momentum/Alianza via connectivity to the 7750 DR routers;
- The MobiTV local channels and caches;
- MobiTV set top box device management systems;
- Emergency Manage System (EAS) system.

C. Service Level Standards

I. Fort Collins Responsibilities. As generally set forth in Sections 5 and 6 of the Agreement, Fort Collins agrees to delivery to customers of all Parties the same quality of above-referenced Network equipment, Technical Support Services, and call center management, as Fort Collins provides for its own customers. These services include the following elements:

- Residential Customer Technical Support
- Account Maintenance and Billing Inquiry Support limited to outage status and the ability to direct customers to CSR and online account access.
- Dispatch for field technicians
- Enter and Monitor Trouble Tickets for supported services and platforms into designated program for each City.
- Trouble Ticket Escalation
- Business Customer Support
- Field Technician Support
● Alarm Monitoring
● Day to Day Operational Support for the Network provided services
● Maintenance Window Support

II. Affiliate Requirements and Responsibilities. As generally set forth in Section 5 of the Agreement, Affiliates agree to secure and maintain the following service elements:

● Residential and Business Customer Service Representative and Billing Services
● Billing and Provisioning Software and support of such software
● Electronic interfaces and systems for System Monitoring and Alarms, Trouble Tickets, Dispatch System, Triple Play Network Element Management Systems, OSS/BSS and other systems as agreed to.
● Current and up to date support agreements for all Equipment listed in Section I of this Attachment.
● Adequately trained on-site staff to perform physical tasks in support of individual networks.
● Remote Support if available
● Budgeting to accommodate refurbishment and replacement of equipment in conjunction and in coordination with the other Cities.

REVISED AS OF: ______________________________

Fort Collins Director: ______________________________

Loveland Director: ______________________________

Estes Park Utilities Director: ______________________________
**Attachment II - Cost Sharing**

**Yearly Cost Sharing**
The cost sharing shall be determined by the proportional number of delivery points in relation to a total of all delivery points from all Parties. The number of delivery points shall be calculated using the number of optical network terminals (ONTs) or other service terminating devices projected to be installed within the network of each party within the next twelve months. The proportional value owed by each party shall be calculated yearly. Each party will provide a projected number of delivery points for its network through December 31st of the following year by December 1st of the current year. In addition, each party will provide a five year projection to assist in long term planning, budgeting, and staffing. This will be updated annually with revised projections. Each party will be responsible for a proportionate sum of the total based on this projection.

For example:

- **Party A** - 12,000 Delivery points
- **Party B** - 5,000 Delivery points
- **Party C** - 15,000 Delivery points

**Total number for all Parties: 32,000 Delivery Points**

Annual cost sharing of $2,000,000 would be divided as follows:

- **Party A** - 37.5% or $750,000 annually or $62,500 monthly
- **Party B** - 15.6% or $312,000 annually or $26,000 monthly
- **Party C** - 46.9% or $938,000 annually or $78,166.67 monthly
## Attachment III - Staffing Plan and Proportionate Costs

### Table 1 - Quantity of Staff Needed

<table>
<thead>
<tr>
<th>Quantity</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
</tr>
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<tr>
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<td>NOC</td>
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<tr>
<td>Engineering</td>
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<td></td>
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</table>

### Table 2 - Budgeted Costs for All Staff

<table>
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<tr>
<th>Cost</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
<th>2024</th>
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</thead>
<tbody>
<tr>
<td>TSR</td>
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<td>$1,117,550</td>
<td>$1,326,125</td>
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<td>NOC</td>
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<tr>
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<tr>
<td>Total</td>
<td></td>
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</table>

### Table 3 - Delivery Point Projections for each Party

<table>
<thead>
<tr>
<th>Delivery Points</th>
<th>2020 Projection</th>
<th>2021 Projection</th>
<th>2022 Projection</th>
<th>2023 Projection</th>
<th>2023 Actual</th>
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<tr>
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<td>18,048</td>
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<tr>
<td>Loveland</td>
<td>12,634</td>
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<tr>
<td>Estes Park</td>
<td>4,200</td>
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</tbody>
</table>

### Table 4 - Percentage Allocation Per Party

<table>
<thead>
<tr>
<th>Percentage</th>
<th>2020 Projection</th>
<th>2021 Projection</th>
<th>2022 Projection</th>
<th>2023 Projection</th>
<th>2023 Actual</th>
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<tr>
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<td>52%</td>
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<tr>
<td>Loveland</td>
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<tr>
<td>Estes Park</td>
<td>12%</td>
<td>12%</td>
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</table>
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Darin Atteberry, City Manager
Jim Byrne, Office of Emergency Management
Carrie Daggett, City Attorney

SUBJECT
Resolution 2020-038 Approving Emergency Rules and Regulations Enacted by the City Manager Pursuant to the Local COVID-19 Emergency Between April 6 and April 16, 2020.

EXECUTIVE SUMMARY
The purpose of this item is to approve emergency rules and regulations enacted by the City Manager between April 6 and April 16, 2020, in response to the COVID-19 emergency. Section 2-671(a)(6)(a) of the City Code provides that the emergency rules and regulations must be confirmed at the earliest practical time by the City Council. This Resolution seeks Council’s approval and ratification of the emergency measures.

STAFF RECOMMENDATION
Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION
The City of Fort Collins continues to be threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19). On March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and in order to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City's Office of Emergency Management, proclaimed a “local emergency” in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code. The City Council extended the local emergency until such time as the City Manager determines in writing that the conditions justifying the local emergency no longer exist, with the adoption of Resolution 2020-030 on March 20, 2020.

Council has since adopted Resolution 2020-032 and Resolution 2020-036, approving Emergency Rules and Regulations Nos. 2020-01 through 2020-08. Subsequently, the City Manager has issued the following additional emergency rules and regulations in order to protect the health and safety of City residents and visitors, as follows:

• Emergency Regulation No. 2020-09, designates an outdoor emergency shelter area at the Northside Aztlán Community Center and adopts Temporary Outdoor Shelter Regulations that will govern the use of the outdoor emergency shelter area, including a prohibition on the open carrying of firearms within the designated outdoor shelter area; and

• Emergency Regulation No. 2020-010, waiving the requirements of the City Land Use Code, Building Code and Fire Code for the property at 1125 West Myrtle Street (the former Elderhaus property off of Shields Street owned by CSURF) so that it can be used to shelter people experiencing homelessness who test positive or are presumed to have COVID-19; and
• Emergency Regulation No. 2020-011, suspending the City Code requirement that solid waste collectors make curbside pickup of residential yard trimmings available at least weekly from April 1 to November of each year, so no residential yard trimming pickup is required from April 1 to June 30, 2020, while allowing the haulers to offer this service if they are willing and able to.
RESOLUTION 2020-038
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING EMERGENCY RULES AND REGULATIONS ENACTED
BY THE CITY MANAGER PURSUANT TO THE LOCAL COVID-19
EMERGENCY BETWEEN APRIL 6 AND APRIL 16, 2020

WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19); and

WHEREAS, in early March declarations of emergency regarding COVID-19 were issued by President Trump, Governor Polis and the Larimer County Department of Public Health and Environment; and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and in order to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City’s Office of Emergency Management, proclaimed a “local emergency” in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the City Council extended the local emergency until such time as the City Manager determines in writing that the conditions justifying the local emergency no longer exist, with the adoption of Resolution 2020-030 on March 20, 2020; and

WHEREAS, having proclaimed a local emergency, the City Manager has issued emergency rules and regulations in order to protect the health and safety of City residents and visitors; and

WHEREAS, at its adjourned meeting on March 31, 2020, the City Council adopted Resolution 2020-032, approving the Emergency Rules and Regulations that had as of that date been issued by the City Manager, including the following:

a. Emergency Regulation No. 2020-01, Authorizing Emergency Purchases pursuant to City Code Section 8-161(b)(1), dated March 17, 2020; and

b. Emergency Regulation No. 2020-02, suspending certain legal requirements to allow the operation of a day shelter, homeless shelter, and/or seasonal overflow shelter at the Northside Aztlan Community Center, dated March 19, 2020; and

c. Emergency Regulation No. 2020-03, suspending fares for all Transfort bus routes within the City, including FLEX and MAX routes and Dial-a-Ride trips, dated March 19, 2020; and

d. Emergency Regulation No. 2020-04, suspending the operation of the requirements of City Code Chapter 26 related to disconnecting City non-telecommunication utility services to a premise upon non- or late payment of

-1-
utility service fees during the pendency of the local emergency or other applicable order, dated March 20, 2020; and

e. First Amended Emergency Regulation No. 2020-05A, suspending the prohibition on occupying recreational vehicles on private property, with written permission from the property owner, for working, living, or sleeping purposes in order to use that recreational vehicle to promote physical distancing and/or quarantine, dated March 30, 2020; and

WHEREAS, at its regular meeting on April 7, 2020, the City Council adopted Resolution 2020-036, approving the Emergency Rules and Regulations that had as of that date been issued by the City Manager, including the following:

a. Emergency Regulation No. 2020-06, authorizing places of worship or assembly to conduct live religious services on their property so long as attendance is viewed remotely from on the property in vehicles provided physical distancing requirements are met and provided the arrangement is permitted by State and County “stay-at-home” orders, dated April 1, 2020; and

b. Emergency Regulation No. 2020-07, limiting enforcement for certain types of parking violations (block face restrictions, overtime, expired tags, and residential parking permit violations) and easing certain requirements related to parking tickets, dated April 1, 2020; and

c. Emergency Regulation No. 2020-08, authorizing certain temporary sign, banner and pennant encroachments by essential businesses during the local emergency, dated April 4, 2020;

and

WHEREAS, the City Manager has since issued additional Emergency Rules and Regulations (collectively referred to as the “Emergency Rules and Regulations”), as follows:

a. Emergency Regulation No. 2020-09, designates an outdoor emergency shelter area at the Northside Aztlan Community Center and adopts Temporary Outdoor Shelter Regulations that will govern the use of the outdoor emergency shelter area, including a prohibition on the open carrying of firearms within the designated outdoor shelter area; and

b. Emergency Regulation No. 2020-010, waiving the requirements of the City Land Use Code, Building Code and Fire Code for the property at 1125 W. Myrtle Street (the former Elderhaus property off of Shields Street owned by CSURF) so that it can be used to shelter people experiencing homelessness who test positive or are presumed to have COVID-19; and
c. Emergency Regulation No. 2020-011, suspending the City Code requirement that solid waste collectors make curbside pickup of residential yard trimmings available at least weekly from April 1 to November of each year, so no residential yard trimming pickup is required from April 1 to June 30, 2020, while allowing the haulers to offer this service if they are willing and able to; and

WHEREAS, Section 2-671(a)(6)(a) of the City Code provides that the emergency rules and regulations must be confirmed at the earliest practical time by the City Council; and

WHEREAS, the Council has determined that Emergency Regulations No. 2020-01 through No. 2020-011 are reasonably necessary to the protection of life, health, safety and property of the residents of and visitors to Fort Collins.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes any and all determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the City Manager’s establishment of the Emergency Rules and Regulations, attached hereto as Exhibit A, Exhibit B and Exhibit C and incorporated herein by this reference, was necessary in the interest of protecting the life, health, safety and property of the citizens of Fort Collins.

Section 3. That the City Council hereby confirms, ratifies and approves Emergency Rules and Regulations No. 2020-09, No. 2020-010 and No. 2020-011, as of the date of their establishment by the City Manager.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of April, A.D. 2020.

_________________________________
Mayor

ATTEST:

_________________________________
City Clerk

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EMERGENCY RULES AND REGULATIONS No. 2020-09

To all persons take notice:

That for the protection of life, health, safety and property as affected by reason of the Novel Coronavirus 2019 (COVID-19), which resulted in my declaration of a “local emergency” under the authority of Chapter 2, Article IX of the Code of the City of Fort Collins, (the “City”) and which declaration of local emergency was filed with the City Clerk and with the Colorado Division of Emergency Management on March 13, 2020 and extended by City Council adoption of Resolution 2020-030 on March 20, 2020, I have hereby established, under the authority of Sec. 2-671(a)(6)a, the following rules and regulations:

1. Commencing on April 10, 2020, and until further notice, the attached Temporary Outdoor Shelter Regulations shall govern use of the City-designated temporary outdoor emergency shelter area at Old Fort Collins Heritage Park adjacent to the Northside Aztlan Community Center.

2. Although the temporary outdoor emergency shelter area is located in a City park, it is temporarily unavailable to the public for use as a park, and Sec. 17-181 of the City Code regarding camping on public property shall not apply within the designated boundaries of the outdoor emergency shelter area through the duration of this emergency regulation.

3. Pursuant to the City’s authority under Section 29-11.7-104 of the Colorado Revised Statutes, the open carrying of firearms within the designated temporary outdoor emergency shelter area is prohibited.

4. Nothing in this emergency regulation shall prevent the City from utilizing such other legal mechanisms as are available to it, including, without limitation, the Fire Code, the Building Code, Chapter 20, Article I of the City Code and/or the Uniform Code for abatement of dangerous buildings in cases of emergency.

Pursuant to Section 2-671(e) of the City Code, the rules and regulations set forth herein shall be disseminated to local radio and television stations and to a newspaper having a general circulation within the City. A knowing violation of these rules and regulations shall be subject to the enforcement provisions outlined in the Temporary Outdoor Shelter Regulations, and may also be a misdemeanor punishable under Section 1-15 of the City Code.

DATED this 10th day of April, A.D. 2020.

______________________________
Darin A. Atteberry, City Manager
TEMPORARY OUTDOOR SHELTER REGULATIONS

I) Authority for Regulations: These regulations are established pursuant to Secs. 2-671(a)(6)a and 23-140 of the Code of the City of Fort Collins, and Emergency Rules and Regulations No. 2020-09

II) Purpose and Scope of the Regulations: These regulations apply to the temporary outdoor shelter area located at the Old Fort Collins Heritage Park property. During the term of Emergency Rules and Regulations No. 2020-09 this area is not being maintained as a City park and is not available for use by the public as a City park. Only activities consistent with use of the property as a shelter are permitted.

As used in these regulations, “Staff Member” or “Staff” refers to a City staff person who is present at or working at the temporary outdoor shelter area as a part of his or her job duties, or staff of the nonprofit service providers operating the emergency indoor shelter at Northside Aztlan Community Center (NACC) pursuant to the Facility Use Agreement for such purpose.

III) Prohibited Acts

The City Manager finds that any of the following acts, if taken or made by any person, whether the act is completed or not, would or could disrupt, impair, interfere with, or obstruct the lawful mission, processes, procedures or functions being carried on in or at the temporary outdoor shelter area. Therefore, any act designated in this Section (Prohibited Acts) may result in the immediate ejection of such person. Any person ejected from the temporary outdoor shelter area must immediately leave both the NACC property and the temporary outdoor shelter site, and may not return for a minimum of 24 hours.

1) Illegal Act. Any action, event, or group of events that constitutes a violation of federal, state or local law;
2) Damaging or Property. Conduct intended to cause or with reckless disregard, causes or attempts to cause the destruction, damage or theft of City property, or the property of others;
3) Public Indecency. Public indecency, indecent exposure, or obscenity (for purposes of this Subsection, indecency does not include the female breast);
4) Fighting. Any action which, in the reasonable judgment of Staff, constitutes an attempt to inflict or does inflict injury to other persons or damage to property, or which poses an unreasonable risk of such injury or damage, such as fighting or instigating an altercation;
5) Intimidating Behavior. Any conduct or expression that in the reasonable judgment of Staff, is intended to intimidate or would be reasonably expected to intimidate, or intimidates others, or encourages or incites unlawful or otherwise prohibited conduct;
6) **Alcohol or Drugs.** Use or possession of alcohol or illegal drugs;
7) **Abusive Behavior.** Physical or verbal abuse of staff or guests;
8) **Fires and Open Flames.** No fires or open flames are allowed on the property.
9) **Unleashed, Aggressive or Dangerous Animals.** Compliance with all City animal licensing and control ordinances is required.
10) **Weapons.** Possession of any illegal weapon, displaying a deadly weapon in a manner calculated to alarm, open carrying of a firearm and discharging a firearm are prohibited.
11) **Abandoning Property.** Do not leave personal property unattended. Abandoned property may be removed and disposed of in accordance with City of Fort Collins policies.

**Process Steps for Staff Action**

Any person committing a Prohibited Act may be asked to leave the temporary outdoor shelter area immediately. Failure to do so will result in Law Enforcement being called and the person being charged with a violation of the City’s Trespass Ordinance or other appropriate charges.

**IV) Enforcement Procedures:**

These regulations will be enforced by City and service provider staff. **Law enforcement officials will be available to assist with enforcement of these regulations and applicable laws and to monitor and oversee activities in the outdoor shelter area.** Violations of these regulations that constitute a criminal act may result in arrest and/or the filing of criminal charges. The City may also take additional action as it deems necessary or appropriate in response to violations of the regulations.

If at any time a Staff person or Volunteer feels threatened or for any emergency situation, they may call 911.

1. Staff will evaluate the safety of approaching the individual and whether to ask another staff member or supervisor to assist.
2. Staff will ask the person to immediately leave the premises, and not to return for at least 24 hours.
3. The person will be suspended from both the temporary outdoor shelter site and the NACC property.
Guidelines for Suspension Lengths

Staff may suspend a guest for any length of time from 24 hours up to one month for prohibited acts. The following factors should be considered when determining how long a suspension should last:

1. The seriousness of the incident;
2. The history of complaints with the guest;
3. Whether, how many times, and how recently the guest has been previously suspended;
4. Whether people were injured during the incident;
5. Whether property was damaged during the incident;
6. Whether criminal charges were or will be filed in relation to the incident;
7. The guest’s current health status (persons with COVID symptoms should be urged to consider isolation at the NACC);
8. Whether the guest has expressed an understanding of the need to comply with these regulations.

V) Right to Appeal:

The “Appeal Committee” will consist of representatives of the City’s NACC/Heritage Park Oversight Team, which includes staff from City Parks, Recreation, Police, and Social Sustainability, and representatives from Homeward 2020 and Homeward Alliance.

A guest who has been suspended for more than 24 hours may appeal the suspension decision or the conditions for reinstatement to the Appeal Committee by giving staff at the NACC indoor shelter a written statement of appeal, including the basis of appeal. The Appeal Committee will review the appeal, and its decision will be given to the guest in writing, along with an explanation of the basis for the decision. That decision will be considered received on the day it is hand-delivered to the guest and will be the Committee’s final decision on the matter.

Effective April 10, 2020
EMERGENCY RULES AND REGULATIONS No. 2020-10

To all persons take notice:

That for the protection of life, health, safety and property as affected by reason of the COVID-19 Event, which resulted in my declaration of a “local emergency” under the authority of Chapter 2, Article IX of the Code of the City of Fort Collins, (the “City”) and which declaration of local emergency was filed with the City Clerk and with the Colorado Division of Emergency Management on March 13, 2020, and extended by City Council adoption of Resolution 2020-030 on March 20, 2020, I have hereby established, under the authority of Sec. 2-671(a)(6)a, the following rules and regulations:

1. Commencing on April 10, 2020, and until further notice, the requirements of the Fort Collins Land Use Code, Building Code and Fire Code related to the permitting and use of property as a day shelter, homeless shelter, and/or seasonal overflow shelter, shall not apply to the use of the property owned by the Colorado State University Research Foundation located at 1105 W. Myrtle Street, Fort Collins, Colorado as a temporary shelter for persons experiencing homelessness.

2. Nothing in this emergency regulation shall prevent the City from utilizing such other legal mechanisms as are available to it, including, without limitation, Chapter 20, Article I of the City Code and/or the Uniform Code for abatement of dangerous buildings in cases of emergency.

Pursuant to Section 2-671(e) of the City Code, the rules and regulations set forth herein shall be disseminated to local radio and television stations and to a newspaper having a general circulation within the City.

DATED this 10th day of April, A.D. 2020.

Darin A. Atteberry, City Manager
To all persons take notice:

That for the protection of life, health, safety and property as affected by reason of the Novel Coronavirus 2019 (COVID-19), which resulted in my declaration of a “local emergency” under the authority of Chapter 2, Article IX of the Code of the City of Fort Collins, (City) and which declaration of local emergency was filed with the City Clerk and with the Colorado Division of Emergency Management on March 13, 2020 and extended by City Council adoption of Resolution 2020-030 on March 20, 2020 (Local Emergency), I have hereby established, under the authority of City Code Sec. 2-671(a)(6)a, the following emergency rules and regulations (Emergency Regulation):

1. Commencing on April 1, 2020, and continuing through May 31, 2020 (Suspension Period), I am suspending the application of City Code Section 14-414(a) that requires curbside collection of residential yard trimmings at least once per week from April 1 through November of each year upon a customer’s request. During the Suspension Period, each solid waste collector licensed by the City shall collect residential yard trimmings on a service frequency determined by the collector (including not providing the service at all). Commencing on June 1, 2020 and thereafter, each solid waste collector licensed by the City shall collect residential yard trimmings on the schedule set forth in City Code Section 14-414(a), unless I extend this Emergency Regulation in writing.

2. I find that this Emergency Regulation is reasonable and necessary to promote the health, safety and welfare of the public as it will allow licensed solid waste collectors to continue essential functions in an economically viable manner and reduce adverse economic impact for all such collectors during the Local Emergency.

3. Nothing in this Emergency Regulation shall suspend or prevent the City from enforcing any other provision of the City Code, including but not limited to those related to licensing requirements applicable to solid waste collectors set forth in Chapter 15, Article 15 and those regarding collection and disposal of refuse and rubbish set forth in Chapter 12, Article 12 of the City Code.

4. Pursuant to Section 2-671(e) of the City Code, the rules and regulations set forth herein shall be disseminated to local radio and television stations and to a newspaper having a general
circulation within the City. A knowing violation of these rules and regulations shall be a misdemeanor punishable under Section 1-15 of the City Code.

This Emergency Regulation shall remain in effect as expressly set forth above or until superseded, rescinded or extended by a subsequent emergency regulation, whichever first occurs.

DATED this 13th day of April, A.D. 2020.

Darin A. Atteberry, City Manager

EXECUTIVE SUMMARY

The purpose of this item is consideration of the opinion of the Ethics Review Board to Council for its consideration and possible approval.

STAFF RECOMMENDATION

Not applicable.

BACKGROUND / DISCUSSION

Under City Code Section 2-569(d), any person who believes a Councilmember or board or commission member has violated any provision of state law of the City Charter or City Code pertaining to ethical conduct may file a complaint with the City Clerk. A Complaint was lodged with the Ethics Review Board through the City Attorney on January 21, 2020, by Rory Heath (the “Complainant”), a Fort Collins resident, against Councilmember Ken Summers and others, alleging that Councilmember Summers has a conflict of interest generally and in connection with the Hughes Rezoning and related Ethics Review Board hearings, in light of a webpage offering his services as a political consultant and lobbyist.

After notice to the complaining party and the subject of the complaint, an alternative Ethics Review Board consisting of Councilmembers Pignataro, Cunniff, Gorgol and Gutowsky met on March 6 to conduct an initial screening review of the Complaint to determine whether the Complaint asserted a factual basis for an alleged state or local ethics violation. At that time, the Board determined that further investigation was needed to make a determination regarding the allegation that lobbying and political consulting activities of Councilmember Summers violate state and local ethics laws.

The alternate Ethics Review Board met on March 13, 2020, to conduct a hearing and investigate the allegation, taking evidence and testimony from the Complainant and from the subject of the Complaint, Councilmember Summers. The Board unanimously concluded that that there is no violation of state and local ethics and conflicts of interest laws pertaining to Councilmember Ken Summers’s political consulting/lobbying activities. Upon completion of its determination, the Board considered draft Ethics Opinion 2020-01, Finding No Violation of State or Local Ethics Provisions by Councilmember Ken Summers, and approved it unanimously.

Section 2-569(c) provides for the opinions and recommendations of the Board to be submitted to the full Council for Council consideration and approval.
RESOLUTION 2020-029
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ACCEPTING AND ADOPTING ETHICS OPINION NO. 2020-01
OF THE ETHICS REVIEW BOARD FINDING NO VIOLATION OF STATE
OR LOCAL ETHICS PROVISIONS BY COUNCILMEMBER KEN SUMMERS

WHEREAS, the City Council has established an Ethics Review Board (the “Board”) consisting of designated members of the City Council; and

WHEREAS, the Board is empowered under Section 2-569 of the City Code to render advisory opinions and recommendations regarding actual or hypothetical situations of Councilmembers or board and commission members of the City; and after review and investigation, to render advisory opinions or interpretations pertaining to such complaints or inquiries under the relevant provisions of the Charter and Code and the applicable provisions of state law, if any, and to make written recommendations to the City Council and any affected board or commission concerning the same; and

WHEREAS, an alternate Ethics Review Board consisting of Councilmember Ross Cunniff, Councilmember Susan Gutowsky, Councilmember Julie Pignataro and Councilmember Emily Gorgol (the “Board”), met on March 13, 2020, to hear and consider evidence in connection with a complaint filed by Rory Heath alleging that lobbying and political consulting activities and related website of Councilmember Ken Summers violate state and local ethics laws; and

WHEREAS, at the conclusion of its hearing in this matter, the Board voted unanimously to determine that no evidence was presented showing an ethics violation under state or local law by Councilmember Summers, either specifically related to the Hughes Stadium rezoning matter or generally related to other Council decisions; and

WHEREAS, the Board unanimously adopted and issued an ethics opinion, Ethics Opinion 2020-01, stating and explaining its finding of no violation of state and local ethics provisions by Councilmember Summers; and

WHEREAS, Section 2-569(e) of the City Code provides that all advisory opinions and recommendations of the Board be placed on the agenda for the next special or regular City Council meeting, at which time the City Council shall determine whether to adopt such opinions and recommendations; and

WHEREAS, the City Council has reviewed the opinion of the Board and wishes to adopt the same.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Opinion No. 2020-01 of the Ethics Review Board, a copy of which is attached hereto and incorporated herein by this reference as Exhibit “A,” has been submitted to and reviewed by the City Council, and the Council hereby accepts and adopts the opinion contained therein.
Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of April, A.D. 2020.

________________________________________

Mayor

ATTEST:

_____________________________________

City Clerk
2020-01
OPINION OF THE ETHICS REVIEW BOARD
OF THE CITY COUNCIL OF THE CITY OF FORT COLLINS

March 13, 2020

Background.

On January 21, 2020, a complaint was filed with the City Council via the City Attorney by Rory Heath (“Heath”). A copy of the Complaint, along with Exhibit 4 pertaining to the subject of this Opinion, is attached. The Complaint alleges that the webpage through which Councilmember Ken Summers (“Summers”) offers lobbying and political consulting services and such services violate state and local ethics laws, including the conflict of interest rules contained in the City Charter, because he improperly participated in Council decisions generally and in connection with the City Council’s rezoning of the Hughes Stadium annexation property and related matters.

Under Section 2-569 of the City Code, the Complaint was first considered by an alternate Ethics Review Board comprised of Councilmember Ross Cunniff, Councilmember Susan Gutowsky, Councilmember Julie Pignataro and Councilmember Emily Gorgol (the “Board”), for initial screening pursuant to Section 2-569(d) to determine whether the Complaint warranted further investigation. At that time the Board determined that further investigation of this allegation of the Complaint was needed.

Summary of Opinion and Recommendation.

The information presented to us indicates that Ken Summers has not carried out any lobbying or political consulting activities during his time on City Council, which began in April 2017. While it is established that Summers has posted a webpage under the business name of KGS Consulting that offers consulting and lobbying services, the webpage is not related to any public decisions or actions absent actual clients or matters in which Summers is or has been engaged. The Board acknowledges that circumstances can be imagined under which a conflict of interest would arise for a Councilmember lobbying for others, most clearly if that lobbying related to a City issue, but also if it on Colorado Statehouse issues affecting the City. Nonetheless, there is not an inherent conflict of interest arising as a result of lobbying or political consulting activities, and in the complete absence of a lobbying or political consulting project, there is no relationship to any matters or interests coming before Summers as a City Councilmember that can even be evaluated. In addition, had Summers undertaken lobbying or political consulting activities, there would still need to be an identifiable relationship between those undertakings and the rezoning of the Hughes Stadium annexation property in order for a conflict of interest or other ethics violation to be present in regards to the Hughes Stadium item. As stated by the Complainant, there is no evidence suggesting that Summers has such a relationship.

While Summers will need to consider carefully the potential for conflicts of interest should he take on the consulting or lobbying work suggested on his webpage, the Board finds there has been no evidence presented showing an ethics violation under state or local law by Summers.
The Information Presented to the Review Board.

Information was presented to us with regard to the Complaint at our meetings on March 6 and 13, 2020. The Complainant, Rory Heath, presented information at both meetings; Summers appeared and presented information at the March 13 meeting. Approved minutes of the March 6 meeting and draft minutes of the March 13 meeting are attached.

Besides the Complaint itself, and the exhibits provided with it, materials presented to the Board included copies of the City Charter, City Code and statutory provisions cited in the Complaint and applicable to this matter, as well as email communications from Heath, memos to the Board from Summers dated March 5 and March 7, 2020, financial disclosures by Summers in January and April 2017, April 2018 and May 2019, and a Lobbyist Summary regarding the lobbying registration of Kenneth G. Summers, printed from the Colorado Secretary of State’s website on March 7, 2020. Heath provided three additional exhibits, an apparent transcript of Summers comments at the January 21, 2020, Council meeting, and two printouts displaying lobbying activities reported by Summers, showing activity only in 2015 and 2016, dated March 12, 2020, from the Colorado Secretary of State’s webpage.

Summers presented testimony and evidence, supported by the exhibits provided by Heath, document no lobbying activity by Summers since 2016. In addition, Heath has confirmed that he knows of no evidence or information showing or suggesting that Summers has a special relationship with Colorado State University, the owner of the Hughes Stadium property, or any other person, that would give cause to suspect Summers has a business or personal interest in the rezoning decision.

Analysis of the Issue Presented.

Whether Summers posting a website offering lobbying and political consulting services, or carrying out services, violates state or local ethics laws is must be analyzed based on the particular interests arising from that undertaking or business.

Heath has expressed repeatedly his belief that the mere offering of such a website creates the possibility and the route for outside interests to influence the voting decision of Summers in the Hughes Stadium rezoning process. No evidence was offered that showed or even suggested any action or actual interest of Summers with an identifiable relationship to actions taken by Summers as a Councilmember or an identifiable relationship to the Hughes Stadium property or rezoning of it. There is no inherent or categorical conflict of interest that arises from specific employment or from lobbying or political consulting work.

There was no indication of how any decision of the Council would have resulted in any immediate financial return to Summers or any direct and substantial benefit or detriment different in kind from that experienced by the general public. Accordingly, no facts were alleged or shown that support a finding that actions of Summers violated the City Charter’s prohibition against a Councilmember participating in decisions in which they have a financial or personal
Likewise, there was no evidence introduced showing that Summers took action as a Councilmember that would benefit him privately or would directly and substantially benefit a business or undertaking in which he had a substantial financial interest, or by which he is engaged as counsel, consultant, representative or agent. Thus, no facts have been shown that constitute a violation of state ethics laws. (Colorado Revised Statutes Sections 24-18-103 through -105, and Section 24-18-109).

Because of the lack of evidence of any actions by Summers as a lobbyist or political consultant that would constitute a conflict of interest in his role as a City Councilmember, we find no state or local ethics violation has occurred.
Disclaimer: I am not a licensed attorney in Colorado, nor purporting to be one by submitting this Ethics Complaint.

To the best of my knowledge, information contained within this ethics complaint is accurate and factual, as executed to the best of my ability.

I request that the City of Fort Collins Ethics Review Board evaluate the information given herein and that the Board take any and all appropriate procedures and actions as outlined in the applicable City, State, and Federal laws, not solely limited to the specific ones discussed within this complaint.

Due to the nature of submitting a complaint of this weight I ask that the review process be explicitly contingent upon my presence at City Hall during the Ethics Review Board Meeting.

I submit this complaint with the expressed statement that additional material may be submitted, and the complaint revised, as needed, as new information is discovered and investigated, reserving all rights to do so.

COMPLAINANT

Rory Heath
PO Box 271777
Fort Collins, CO 80527

COMPLAINEES

Wade Troxell
Mayor, City of Fort Collins
Associate Professor, Mechanical Engineering, Colorado State University
Director, Center for Networked Distributed Energy, Colorado State University
Director, RamLab, Colorado State University

Kristin Stephens
Mayor Pro Tem, Fort Collins City Council
Councilmember representing District 4, Fort Collins City Council
Graduate Coordinator, Department of Statistics, Colorado State University
Program Assistant II, Department of Statistics, Colorado State University

Ken Summers
Councilmember representing District S, Fort Collins City Council
Owner and Registered Agent, KGS Consulting
ALLEGATIONS

There exists a consistent betrayal of the public trust vested in the elected officials and the city staff of Fort Collins. This act was evident in varying levels throughout this process and perpetrated by various individuals. The most egregious and measurable violation of this trust was evident in the actions of 3 Fort Collins City Council Members, with questions surrounding why they voted against the overwhelming majority of citizens’ wishes, continually, in strong light of each councilmembers’ obvious conflicts of interest. The councilmembers in violation are Wade Troxell, Kristin Stephens and Ken Summers.

Wade Troxell and Kristin Stephens are both current employees of Colorado State University. Colorado State University, in seeking to sell a tract of land it owns to Lennar Homes, is seeking government approval before the very city council that Wade Troxell and Kristin Stephens are both voting members of. This is textbook conflict of interest and corruption at the elected official level. Each has significant personal and social interests, significant financial interests, and thus, significant related Conflicts of Interest.

Ken Summers, by all indications, owns and operates KGS Consulting, a business with the key taglines of “Opening Doors”, “Providing Access” and “Empowering Influence” listed just below its’ entity name, as currently seen on Ken Summers’ own website, Kensummers.org. The contents of this website are an explicit billboard for “pay for play” in the political realm. Kensummers.org is a website still very much in use and regularly updated, with a post by the user “kensummers” on 12/23/2019. Ken Summers’ email address and personal phone number are listed on the same page, below the list of services he is able to provide. This advertisement for influence into governmental decisions, in light of Ken Summers’ present standing as councilmember brings all of his actions under justified scrutiny. Further, when seen voting opposite of the public will, his actions become that much more suspicious and in question.

Summers himself also possesses a near “sky is the limit” conflict of interest from a personal, social, and even specific business perspective, possibly even including related lobbying statutes and laws. To really understand the extent to which Summers’ actions have effected his position of public trust, an intense investigation will be required; up to and including obtaining copies of financial statements, business transactions and the like. Opening up the possibility of selling influence invites all possible outside suitors into the legislative process.

The actions of the councilmembers in question have specifically affected the integrity and the procedure of Fort Collins City Government in the consideration and the voting of City Ordinance No. 138, 2019 and even the Ethics Review Board that convened on 12/16/2019.

FACTS

1. Wade Troxell is currently and gainfully employed by Colorado State University. Mr. Troxell is an Associate Professor in the Mechanical Engineering department as well as the Director of the Center
for Networked Distributed Energy, as well as Director for RamLab. Kristin Stephens is currently and
gainfully employed by Colorado State University. Ms. Stephens is the Graduate Coordinator of the
Department of Statistics and Program II Assistant in the Department of Statistics. (contained within
Ex. 17)

2. Wade Troxell and Kristin Stephens both took an Oath to CSU as a condition to their employment at
CSU. (see Ex. 11)

3. Ken Summers is the presumable owner of KGS Consulting, as displayed as a feature tab on the
website kensummers.org. Kenneth G Summers is listed as the registered agent on the Colorado
Secretary of State website directory for the same KGS Consulting. (see Ex. 18)

4. Colorado State University is the owner of a tract of land bounded to the West by Horsetooth
Reservoir and it’s related Open Space, and bounded to the East by South Overland trail. More
particularly described by the accompanying and attached documents, and more generally referred
to simply as the former site of Hughes Stadium.

5. The university is attempting to sell this land to a developer, Lennar Homes, under conditional terms,
via a Purchase Agreement. (contained within Ex. 17)

6. The Purchase Agreement in place explicitly lists an “Additional Purchase Price” to be paid as bonus
for every housing unit sold on the property. Also explicitly listed in the Purchase Agreement is a
clause titled “Preliminary Entitlement Confirmation” whereby Lennar homes is given a means by
which to remove itself from the agreement if a stated minimum number of units is not met.
(contained within Ex. 17)

7. Wade Troxell has collected a paycheck, aka compensation for his employment and efforts. Wages
have been exchanged as consideration for services rendered in the past and continuing to be
rendered into the future.

8. Further, Mr. Troxell has gained national notoriety from his continued employment and involvement
at programs housed within the CSU System and within the academic buildings of Colorado State
University. (contained within Ex. 17)

9. Troxell is a director and by extension, a fiduciary, for the Center and the RamLab. (contained within
Ex. 17)

10. Wade Troxell, though currently an associate professor, could conceivably be promoted to a full
professor or even further promoted to a Dean or the like, as had been the case in the past. This
promotion would carry with it all of the additional benefits of the new title.

11. Kristin Stephens has collected a paycheck, aka compensation for her employment and efforts.
Wages have been exchanged as consideration for services rendered in the past and continuing to be
rendered into the future. (contained within Ex. 17)

12. Kristin Stephens, though currently listed as a Graduate Coordinator and a Program Assistant, could
conceivably be promoted to a position with better career opportunities, research authoring
possibilities or a myriad of other benefits.

13. Ken Summers, through his KGS Consulting, offers the following services via his website (see Ex. 4):
   • “Opening Doors”
   • “Providing Access”
   • “Empowering Influence”
   • “PERSONAL CONTACT WITH LEGISLATORS to inform them of your position on a bill and why
     you support or oppose the legislation.”
   • “COMMUNICATION WITH DEPARTMENTS that interface with your business on the writing
     and implementation of rules”
   • “TOURS AND RECEPTIONS that provide legislators an opportunity to learn firsthand about
     the work that you do”
• "Navigating through the maze of the political arena can be a challenge. That is why an individual with experience working with you and advocating on your behalf can make a difference."

14. In 2017 Mayor Wade Troxell received campaign contributions from the National Association of Realtors Fund in the amount of $39,722. This number was added to $5,000 that had rolled over from a previous campaign, and $15,000 collected during this campaign. By definition, local realtors are dependent on housing as their “inventory” by which to make their commission, an overwhelming part of their personal compensation. (see Ex. 9)

15. Thompson Area Against Stroh Quarry, Inc. et al v. Board of County Commissioners of Larimer et al, Larimer County District Court Case No. 2018CV30371, A court decision within Larimer County, entered in August of 2019, has directly and specifically addressed the question as to whether a campaign contribution would warrant recusal by a government official, in any capacity. (see Ex. 9)

16. Wade Troxell had previously recused himself in a matter related to CSU in 2017 regarding ordinance No.051, 2017. (see Ex. 9)

17. When collecting research data at the Drake Centre Event regarding as to which zoning was preferred by the general public, a narrow offering of 5 different scenarios was given, with none being composed only of RF and none containing POL. (see Ex. 2)

18. When asked for public comment and public feedback throughout the re-zoning process, there exists an absolute preponderance of evidence to support the conclusion that the public would support either the bare minimum of development for that parcel of land or no development at all, leaving it just how it is now, untouched. (see Ex. 1)

GOVERNING LAW

The governing laws presented below are only a selection of applicable laws to the Complaint. As such, consideration of the matter before the Board is not limited only to those cited below and within this Complaint.

The references made below are given in smaller snippet form. Please review the full attached exhibits, and the full verbiage of each statute, etc. Please see Ex. 5, 6, 7, 8, 9.

- Fort Collins City Code Sec 2-568 (a) lays out the definitions by which to define the following portions of the city code
- Fort Collins City Code Sec 2-568 (a) (11) states “personal Interest means any interest (other than a financial interest) by reason of which an officer or employee, or a relative of such officer or employee, would, in the judgement of a reasonably prudent person, realize or experience some direct and substantial benefit or detriment different in kind from that experienced by the general public.” Also citing Section 9(A) of the Charter Article IV.
- Fort Collins City Code Sec 2-568 (a) (18) states: Substantial shall mean more than nominal in value, degree, amount or extent.
- Fort Collins City Code Sec 2-569 (c)(2) states: “To Review and investigate actual or hypothetical situations involving potential conflicts of interest presented by individual Councilmembers or board and commission members”
- Fort Collins City Code Sec 2-569 (d)(1) (a) states: “Any person who believes that a Councilmember or board and commission member had violated any provision of state law or the Charter or Code pertaining to ethical conduct may file a complaint with the city clerk..."
Fort Collins City Code Sec 2-569 (d)(1)(b) states: "... the Review Board shall consider the following: (1) whether the allegations in the complaint, if true, would constitute a violation of state or local ethical rules."

Fort Collins City Code Sec 2-569 (g) states: "Compliance with the applicable provisions of the Charter and Code and the provisions of state law, as well as decisions regarding the existence of conflicts of interest and the appropriate actions to be taken in relation thereto, shall be the responsibility of each individual Councilmember or board and commission member, except as provided in..."

Colorado Revised Statute 24-18-102 states:

"As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

(a) An ownership interest in a business;

(b) A creditor interest in an insolvent business;

(c) An employment or a prospective employment for which negotiations have begun;

(d) An ownership interest in real or personal property;

(e) A loan or any other debtor interest; or

(f) A directorship or officership in a business;

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government, but does not include an employee of a local government.

(7) "Official act of elected officer" means any action, decision, recommendation, or approval of a principal executive officer which involves a use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government..."
official, or any member of a board, commission, council, or committee who receives no
compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every
executive department, board, commission, committee, bureau, and office; every state
institution of higher education, whether established by the state constitution or by law,
and every governing board thereof; and every independent commission and other
political subdivision of the state government except the courts."

- Colorado Revised Statute 24-18-103 states:

  "1) The holding of public office or employment is a public trust, created by the confidence
  which the electorate reposes in the integrity of public officers, members of the general
  assembly, local government officials, and employees. A public officer, member of the general
  assembly, local government official, or employee shall carry out his duties for the benefit of the
  people of the state.
  (2) A public officer, member of the general assembly, local government official, or employee
  whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of
  property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his
  trust. The district attorney of the district where the trust is violated may bring appropriate
  judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid
  to the general fund of the state or local government. Judicial proceedings pursuant to this
  section shall be in addition to any criminal action which may be brought against such public
  officer, member of the general assembly, local government official, or employee."

- Colorado Revised Statute 24-18-104 (1) states: "Proof beyond a reasonable doubt of commission
  of any act enumerated in this section is proof that the actor has breached his fiduciary duty and
  the public trust. A public officer, a member of the general assembly, a local government official,
  or an employee shall not:"

- Please consider Colorado Revised Statute 24-18-105, in its entirety.
- Colorado Revised Statute 24-18-109 states:

  (1) Proof beyond a reasonable doubt of commission of any act enumerated in this
  section is proof that the actor has breached his fiduciary duty and the public trust.

  (2) A local government official or local government employee shall not:

  (a) Engage in a substantial financial transaction for his private business purposes with a
  person whom he inspects or supervises in the course of his official duties;

  (b) Perform an official act directly and substantially affecting its economic benefit to a
  business or other undertaking in which he either has a substantial financial interest or
  is engaged as counsel, consultant, representative, or agent; or

  (c) Accept goods or services for his or her own personal benefit offered by a person
  who is at the same time providing goods or services to the local government for which
  the official or employee serves, under a contract or other means by which the person
  receives payment or other compensation from the local government, unless the
totality of the circumstances attendant to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the official or employee does not receive any substantial benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

(5) (a) Notwithstanding any other provision of this article 18, it is neither a conflict of interest nor a breach of fiduciary duty or the public trust for a local government official who is a member of the governing body of a local government to serve on a board of directors of a nonprofit entity and, when serving on the governing body, to vote on matters that may pertain to or benefit the nonprofit entity.

(b) Except as provided in subsection (5)(b)(II) of this section, a local government official is not required to provide or file a disclosure or otherwise comply with the requirements of subsection (3) of this section unless the local government official has a financial interest in, or the local government official or an immediate family member receives services from, the nonprofit entity independent of the official's membership on the board of directors of the nonprofit entity.

(II) A local government official who serves on the board of directors of a nonprofit entity shall publicly announce his or her relationship with the nonprofit entity before voting on a matter that provides a direct and substantial economic benefit to the nonprofit entity.

In applying the laws referenced and re-stated above, there exist numerous applications, arguments and even very clear cut violations of law and worse yet, violations of the public trust given to the individuals in question.
ANALYSIS

Wade Troxell and Kristin Stephens have a direct personal interest in CSU, a bias because of their relationship with CSU, and a means by which they can be rewarded by CSU as expertly laid out in a previous, and wholly separate ethics complaint regarding the very same ordinance. (see Ex. 17) Their refusal to recuse themselves from the process gave them a means by which they could exert their bias and personal/professional agenda upon the final decision. (see Ex. 3, in lieu of a typed transcript pertaining to the 11/5/2019 Council Meeting, in addition to all other meetings as related to the Ordinance referenced within this Complaint)

At every occasion that public comment was collected, the overwhelming majority of respondents asked for zoning that maximized open space, and minimized the number of houses placed on the parcel of land in question. The original materials for the First Reading of the ordinance relating to this parcel of land contained a breathtaking 655 pages full of citizens begging their elected officials to vote with the will of the people and approve a zoning solution best exhibited by either RF or POL zoning for the entirety of the tract. (see Ex. 1)

When it came time to declare their voting intentions, both Wade Troxell, Kristin Stephens, and Ken Summers, even upon being directly advised by city staff that affordable housing was unenforceable, chose to vote for higher density/ more housing units under the false rationale that this would create more affordable housing. (see Ex. 3, in lieu of a typed transcript pertaining to the 11/5/2019 Council Meeting, in addition to all other meetings as related to the Ordinance referenced within this Complaint)

This voting rationale, especially when told that their argument was proven invalid on record, is suspicious to say the least. By all appearances and indications, Troxell and Stephens voted in line with a course of action that would benefit their employer/ the entity that they are representatives for. Their votes were just opposite of the overwhelming public opinion. Further, the fact that they were even allowed to guide and participate in the discussion is alarming and a tainting of the sanctity of government, and especially alarming when considering their fiduciary duty to their constituents and the greater good of the Colorado public. (see Ex. 1, and all applicable laws regarding fiduciary duty, not limited only to the ones contained within this complaint)

Further bringing into question the sanctity of the process is the way that research data was collected and presented to Council, and similarly presented to the public. At the Drake Centre, public respondents were railroaded into choosing amongst only 5 options, with all options containing a large amount of homes to be built in their relating zoning. (see Ex. 2)

No options were given that had exclusive RF or POL zoning. Coupled with the slides presented by city staff summarizing support for each of the narrow options, a misrepresentation of the public’s will and wishes was provided, with ease. Even the digitization of the post-it comments edited some comments by practice. (see page 19 and 15 of Ex.1)

Fundamentally, this is an affront to the will of the people, as perpetrated by city staff and further brings into question the trust that is placed in local government officials, and city staff. These were both actions supported by city staff and referenced by the Council members in question. Also interesting was
Troxell's previous recusal when a similar conflict of interest arose in relation to his employment at CSU in 2017 regarding Ordinance No. 051, 2017.

By the wording and definitions of the State Statutes and the Fort Collins Codes that generally reference the State Statutes, (see Ex. 6, 7, 8), Troxell and Stephens are representatives and employees of CSU/ the seller of the parcel described in the ordinance. Within (Ex. 6,7,8), there are numerous applications of the terms and concepts introduced within the law, resulting in a very clear violation of nearly each applicable one.

Councilperson Summers was presented the same overwhelming number of responses from citizens begging for Open Space and at worst, RF zoning, and just like Troxell and Stephens, he voted against the wishes of the very people that he was entrusted to represent and vote in line with. This decision to vote against the people before him, against the 655 pages of public comment and against the public's wishes in general was particularly alarming when considered in the frame of his website ie “Providing Access”, “Empowering Influence”. When looked at in that context, a vote against the public will, and instead in line with a possible private commercial interest seems to have possibly occurred.

There is also a workplace sociological factor involved in Troxell and Stephens inherent bias towards their workplace. Not only is their future success tied to the future of CSU, but their success is also tied to their relationships with the people whom all fly the same CSU flag. It is a known psychological assertion that those together, all striving towards the same goal, especially in employment, regardless of the sector, tend to exhibit a groupthink mentality and one that is in line with supporting the endeavors of the organization as a whole, regardless of evidence to the contrary; even to the detriment of those not a part of the same organization. Key examples of this can be seen in the Milgram Experiment on Obedience to Authority, The Solomon Asch Conformity Concept, and Irving Janis’ work regarding the identification and study of the idea of “groupthink.” (see Ex. 12, 13, 14)

Previous opponents of the fact that employment within State Education is still employment, with all of it’s associated trappings, have argued that there is somehow a difference between the two. When evaluating any differences between public and private employment, they share nearly all of the same key characteristics: They show up to perform work duties at a common location usually, get a paycheck from this work, network and socialize with their peers and fellow employees while at work. They even share the same common goal of the prosperity and continued success of that entity that they represent.

This goal in this case is firmed up by an oath to CSU which they both took. (see Ex. 11)

When evaluating the issue of conflict of interest, the Academic Faculty and Administrative Professional Manual of Colorado State University (see Ex. 10) states “External obligations, financial interests, and activities of each University employee must be managed so that there is no interference with the employee’s primary obligation and commitment to the University.” When evaluating which of Troxell and Stephens’ conflicting interests will win out, it’s very clear that the CSU Staff Manual dictates that The University’s interests must win out. In this case, dictating that CSU’s interest must win out over the public’s wishes regarding this Ordinance and the fate of the associated parcel of land. This fact is laid out in writing. In fact, Troxell and Stephens are to even remove themselves from the interference, as per the same Manual.
Also in relation to this passage in the CSU Manual is the fact that Troxell and Stephens have not even properly adhered to the policies of CSU, nor the public trust placed within them by that employment, by removing themselves from the interference.

All of these actions, and suspicious voting patterns, coupled with Troxell and Stephens steadfast refusal to simply recuse themselves places us on the doorsteps of a very scary political principle: corruption. Continuing on this course and allowing these individuals to vote on, much less influence the discussion on the topic, is improper and casts a shade of impropriety on the process.

Further, it has been shown again and again that this approach to determining the fate of a such a large and valuable swath of land is the wrong way to go about it. This is evidence that the fate of the Hughes Site needs to be in the hands of the thousands of people that have enjoyed it, and not just in the hands of 7 people too easily influenced by outside interests and unwilling to recognize their own inherent bias. (see Ex. 1)

At no point during this process has government aptly summarized the people’s opinion for them, nor should they be allowed to.

Further disconcerting was the question as to whether the Ethics Review Board that previously met on 12/16/2019 can even be considered to be unbiased, when council themselves are asked to essentially police themselves in the manner. I feel that asking anyone to objectively judge and evaluate a peer whom shares the same duties and responsibilities as oneself is not a fair process in the least due to inherent biases. I.e., you’re naturally inclined to feel sympathetic to someone who encounters the same possible challenges and possible pitfalls before them.

What personally concerns me in the matter is the voracity with which Ken Summers attacked all arguments in support of an investigation into the Ethics Complaint (see future exhibit to be added of record of the Ethics Review Board meeting having taken place on 12/16/2019). Considering Ken’s own promises of “Opening Doors”, “Providing Access”, and “Empowering Influence” on his website, I can’t help but fear that Ken’s own consulting business has somehow tainted even the Ethics Review Board. And to be honest, I don’t even know where to start on all of the processes that Ken could have tainted by his actions and questionable motives.

The question to consistently be asked here is: What happens when the needs and goals of a client of Ken’s consulting service runs opposite of that of his constituents? The fact that the possibility even exists that he could arrive at this decision juncture is unacceptable, especially in view of the public trust that is placed upon him. In fact, the very idea of “opening doors” and “selling access” is antithetical to a properly represented constituency.

When looking to outside advice and academic legal guidance on the subject, Robert Wechsler, a graduate of Harvard College and Columbia University Law School, and contributor to Columbia Law School’s Center for The Advancement of Public Integrity, offers terrific exploration of the topic through two writings, Local Government Ethics Programs: A resource for Ethics Commission Member, Local Officials, Attorneys, Journalists, and Students, and A Manual for Ethics Reform EX and Local Government Ethics Programs In a Nutshell. (see Ex. 15, 16) In the past, Wechsler has even contributed to The Washington Post regarding Washington D.C. politics.
Finally, regarding the topic of campaign contributions by the National Association of Realtors Fund to Mayor Troxell’s election campaign, there exists case law regarding proportionally large contributions to a candidate’s election campaign serving to “violate a person’s due process rights to an impartial decision-making body.” (see Ex. 5,9) This case law, found in the same county as the parcel in consideration, is a terrific path by which to approach Troxell’s actions from an additional front.

CONCLUSION

In summary, the following has been presented:

I. Fort Collins Mayor Wade Troxell and Fort Collins City Councilmember Kristin Stephens are both employees of Colorado State University, the very same entity seeking favorable re-zoning so that the sale of a large 165-acre parcel of land may be successfully sold to Lennar Homes, a developer.

II. Fort Collins City Council member Ken Summers is currently hosting on his website kensummers.org, a page dedicated to his political consulting business/lobbyist business. This page promises direct influence of legislative matters that can be interpreted to mean either the influence of a third party, or of himself, in exchange for compensation of some sort.

III. The actions of all three individuals, as it pertains to all related activities relating to the consideration of Fort Collins Ordinance No. 138, 2019 (including all related Ethics Complaints hearings), are in direct violation of State and Municipal Ethical and Conflict of Interest Laws. All three individuals have also failed in performing their fiduciary duty to the people of Colorado, a duty ingrained within their public service, and in the case of Troxell and Stephens, their employment by Colorado State University.

IV. A consistent effort to minimize the representation of the public’s wishes regarding the end use of the parcel of land in consideration has been continually undertaken by city staff and City Elected officials.

I request that the Ethics Review Board investigate all ethics violations made by Wade Troxell, Kristin Stephens, and Ken Summers. I request that the Board carry this out using all tools and options at it’s disposal and do so by taking to heart the public’s explicit, expressed, and continual wishes regarding one of the most important pieces of land to Fort Collins’ identity. I specifically request that Wade Troxell, Kristin Stephens and Ken Summers are removed from all interactions with the decision-making process, and severe remediation actions are taken to address the harm to the process already caused.

In closing, I’d like to give the opportunity for a few other members of the public to speak and have their voices heard in a more direct way:

“No westward growth. Open Space. Walking trails only.”

“500-600 Homes added to this area unacceptable”

“Encourage CSU to look for a buyer that will keep it open space”
“This ‘open space’ has been an outdoor recreation location well-known by the community and used as such for many, many years. Development is taking this away from the community. (post-it note placed over word, illegible) allow lots of open space.”

“Takes public access and enjoyment/ shared use out of the picture. Not fair when we have to stare at those houses instead of our beautiful foothills habitat every day.”

Above quotes excerpted from Exhibit 1, and pages 94-112 of the First Reading Packet for Ordinance No. 138, 2019.

In light of this complaint, and consistent with the actions taken regarding past Ethics Review Board Complaints, I respectfully request a delay in any matters before Council in relation to Ordinance No. 138, 2019, commonly referred to as “The Hughes Re-Zoning.” As explicitly acknowledged and stated on 11/19/2019, the mere appearance of impropriety in the process could forever stain the process and further erode the public trust in Council’s actions.

Submitted with respect and severe concern to the Ethics Review Board this 21st day of January, 2020.

____________________________

Rory Heath
Exhibits

1. All pages of previous submitted comments, pages 94-748 of the packet
2. All pages of narrow options given to drake centre attendees
3. Video of first reading
4. KGS website
5. Referenced court case by lawyer letter
6. Muni Code
7. State Statutes
8. Statutes submitted by city attorney
9. Lawyer letter
10. Excerpt from Academic Faculty and Administrative Professional Manual of Colorado State University
11. Oath of CSU
12. Voltage- Milgram Experiment
13. Group Think- asch conformity concept
15. Shortened Columbia University Paper
16. Long Columbia University Paper
17. Nick Frey Complaint
18. Secretary of State Directory Result for KGS Consulting
19. Official Record of Ethics Meeting to be found in the future
The laws that are passed and the regulations that are established have a significant impact on citizens and of all types in Colorado. Navigating through the maze of the political arena can be a challenge. That is why an individual with experience working with you and advocating on your behalf can make a difference.

KGS Consulting provides you with a value-added partnership so you can be proactive on the issues that impact your business. Here is how that is accomplished:

- PROVIDING INSIGHT into the legislative process and political environment
- TRACKING LEGISLATION that impacts your business and helping you to take a formal position on those pieces of legislation
- PERSONAL CONTACT WITH LEGISLATORS to inform them of your position on a bill and why you support or oppose the legislation.
- PROPOSING NEW LEGISLATION OR CHANGES IN CURRENT LAW
- ARRANGING FOR TESTIMONY ON BILLS before committees in collaboration with others who share your position
- COMMUNICATION WITH DEPARTMENTS that interface with your business on the writing and implementation of rules
- TOURS AND RECEPTIONS that provide legislators an opportunity to learn firsthand about the work that you do
- SERVING AS A SPOKESPERSON for your business at the capitol, with other industry groups and in the community
- PROVIDING FEEDBACK AND UPDATES as needed to stay on the forefront of how bills are progressing through the process

These are some of the ways that having a contact inside the capitol can work for you. Some services may be more appropriate than others depending on your needs and area of interest.

I look forward to developing a partnership where I can serve you at the capitol by providing access, opening doors and empowering influence in the legislative process. You can make a difference and be a part of shaping public policy in Colorado.

Ken
KGS Consulting * ken@kensummers.org
303-726-4766
Julie Braswell
FEB 22, 2017 @ 19:43:32
Hi Ken,

I guess it is really a small world after all. You met my teenaged son who is an intern for Senator Lundburg a couple of weeks ago. You must have made an impression on him because he came home and told me all about the visit. I knew your name sounded familiar and when I googled you I realized that we had met several years ago. You officiated my uncle’s funeral – his name was Bruce Jones.

Anyway Nathaniel told me you were running for city council here in Fort Collins (which is where I live). That is very exciting news as Fort Collins is in desperate need of conservative Christian leadership. I signed up for your newsletter and look forward to keeping up with your campaign.

Blessings,
Julie

Leave a Reply

Your Name *
Your Email *
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Post Comment
Ethics Review Board Meeting Minutes  
March 6, 2020  
5:00 p.m.

Members in Attendance: Board members Julie Pignataro and Ross Cunniff; Councilmembers Susan Gutowsky, Emily Gorgol; Carrie Daggett, City Attorney; Jeanne Sanford, Paralegal, Delynn Coldiron, City Clerk.

Public in Attendance: Mayor Wade Troxell; Mayor Pro Tem Kristen Stephens; Complainant Rory Heath and his attorney, Andrew Bertrand and approximately 30 members of the public.

A meeting of the City Council Ethics Review Board (“Board”) was held on Friday, March 6, 2020, at 5:00 p.m. in the CIC Room, City Hall West.

The meeting began at 5:00 p.m. The Board reviewed the Agenda which contained the following items:

1. Selection of Presiding Officer for Alternate Ethics Review Board as it considers the pending complaints.
2. Review and Approval of the December 16, 2019 Minutes of the Ethics Review Board.
3. Consider in accordance with City Code Section 2-569(d)(1) whether a complaint filed on January 21, 2020, by Rory Heath, making various allegations regarding the conduct of the Councilmembers below, warrants investigation:
   a. Mayor Wade Troxell
   b. Mayor Pro Tem Kristen Stephens; and
   c. Councilmember Ken Summers
4. Other Business.
5. Adjournment.

The first item on the agenda, selection of a Chair, was discussed. Councilmember Ross Cunniff made a motion to approve Councilmember Pignataro as Chair. Councilmember Emily Gorgol seconded the motion. The motion to appoint Councilmember Pignataro as Chair was adopted by unanimous consent.

The approval of the December 16, 2019 Minutes of the Ethics Review Board was next on the Agenda. Councilmember Cunniff made a motion to approve the December 16, 2019 Minutes and Councilmember Emily Gorgol seconded the motion. The Minutes of the December 16, 2019 Ethics Review Board were approved by unanimous consent.
City Attorney Daggett explained the background materials, including of Rory Heath’s Complaint, were provided with an introductory Agenda Item Summary (“AIS”), accompanied by three sections pertaining to each part of the Complaint. The allegations against Mayor Troxell were contained in AIS 3a, Mayor Pro Tem Kristen Stephens’s portion in AIS 3b and Councilmember Ken Summers’s portion in AIS 3c.

The Board decided to give the Complainant and respondent 5 mins to speak in turn and allowed 5 minutes of rebuttal for each.

City Attorney Daggett discussed the overview of the complaint and the structure of the materials presented. City Attorney Daggett explained supplemental materials received on March 5, 2020, were given to all members of Council and included Ken Summers’s statement and an email exchange with Complainant regarding his procedural concerns. These documents were also posted on the public website.

Complainant Rory Heath introduced his attorney, Andrew Bertrand, and then spoke for 5 minutes, in which he asked the Board for consideration for a more judicious process. Mr. Heath stated he felt his complaint, along with all exhibits referenced and highlighted were not given to the Board.

Councilmember Pignataro assured Mr. Heath they all received the complaint with highlighted exhibits the day he filed the complaint contained on a jump drive which was given to all Councilmembers.

Mr. Heath stated he felt Council was not given the full scope and key ethics laws were not furnished by the City Attorney. Mr. Heath stated that Professor Wade Troxell is an employee of CSU which fits within all applicable Colorado Revised Statutes definitions highlighted in his materials. He asked the Board to consider outsourcing this Ethics Review Board as he felt the process was biased as was the checklist supplied by City Attorney Daggett.

Mayor Troxell next spoke and pointed out previous documents related to conflict of interest with his employment at CSU. Mayor Troxell talked about City Council Resolution 2014-107 wherein he asked for a review regarding the CSU stadium issue. Mayor Troxell read one of the Whereas clauses in that Resolution which stated the attached advisory opinion concluded Mayor Troxell did not have a conflict of interest with the CSU stadium issue considering his employment by CSU.

Mayor Troxell stated as it relates to the previous Ethics Review Board (in December, 2019), two determinations were made. The Board voted unanimously that further investigation of a complaint was not warranted and there was no financial or personal conflict of interest and no violation of any state or city violation of ethics. Mayor Troxell further stated that in this complaint, there is no financial benefit or detriment in this matter; this is a rezoning issue which is more administrative in nature. It does not fit within the definition of financial benefit. Regarding a personal benefit, Mayor Troxell stated he has no direct or substantial personal benefit. The state ethics provisions exclude institutions of higher education, so directorship means fiduciary member; Mayor Troxell stated he is only a faculty member.
In Mr. Heath’s rebuttal time, he stated he was glad Mayor Troxell brought up the previous ethical situation with the stadium as this speaks to a larger problem. Mr. Heath stated it would be of interest how a court of law would interpret this; it is unfair for Councilmembers to judge their peers. This is not fair as Mayor Troxell collects a paycheck which says CSU no matter how one wants to look at it. Mr. Heath explained this is a first piece of a larger piece if the zoning goes through.

Andrew Bertrand spoke to the financial benefit per dwelling payment to CSU in the current development contract for this land being rezoned which is very different than the CSU stadium situation and should be considered as such.

Mayor Troxell then gave his rebuttal, stating that Rory Heath had made no case and these broad allegations did not relate to him. Mayor Troxell asked if Mr. Heath was talking about the CSU system, CSU Fort Collins, or CSU Research Foundation. Mayor Troxell stated he is a faculty member of the College of Engineering and is not involved with the Board of Governors and these conversations. Mayor Troxell also spoke to Mr. Heath’s allegations regarding donations to his campaign, and noted there is nothing to substantiate that allegation. Mayor Troxell stated Mr. Heath is factually wrong and his broad-based innuendos do not relate to him.

Councilmember Pignataro brought the issue back to the Board. Ms. Pignataro stated the City Attorney’s Office will be coming to Council with ideas for a different Ethics Review Board structure to hear a complaint against a Councilmember sometime this summer.

Ms. Pignataro asked City Attorney Daggett if the Board was missing the full ethics laws as Mr. Heath alleged.

City Attorney Daggett stated she had a hard time picking out what statutes Mr. Heath was suggesting were not provided. She noted Colorado Revised Statutes Section 24-18-108 only applies to state officers and excludes City officials. City Attorney Daggett stated she did not provide that statute to Councilmembers as it did not apply and that she believed all others had been provided.

Councilmember Ross Cunniff discussed Article XXIX to the State Constitution (also referred to as “Amendment 41”) regarding prohibiting an appearance of a conflict of interest. Mr. Cunniff stated the City needs to update its code to reflect this as he feels the City has not adequately addressed the issue of the appearance of conflict.

City Attorney Daggett stated Amendment 41 adopting Article XXIX of the Colorado constitution was passed in 2006 and the City has not made amendments to its local provisions intended to match that provision. She noted the exception language allowing home-rule cities to adopt their own local ethics provisions, and further noted that the extent of this exception is currently being litigated.

The Board discussed the best way to bring this issue to Council and asked the City Attorney to provide further information to Council on this for further consideration.
Councilmember Gutowsky stated she felt Councilmember Cunniff brought up a good point, expressing that optics and how things look are very important. She has listened to constituents’ comments and while this may not be against the Code of Ethics, people feel the way they feel, and it should be a natural decision to recuse yourself if your employer is involved in an issue. She hears the public’s voice; it is all about impression.

The Board discussed the listed City and statutory ethics provisions, and in particular whether CSU was defined as a “business or other undertaking.” City Attorney Daggett stated the Colorado Independent Ethics Commission has specifically looked at the question of whether a public body is a “business or undertaking” and has found that a public body is not a “business or other undertaking.”

Chair Pignataro then went through the checklist attached to the AIS 3a.

Councilmember Cunniff made a motion that the Board find that having reviewed the allegations of Mr. Heath’s Complaint and the applicable laws, the Board has determined that the Complaint fails to allege that Mayor Troxell has a financial or personal interest or conflict related to the decision on the Hughes Stadium property rezoning and no further investigation is warranted. Councilmember Pignataro seconded the motion and the motion passed by unanimous voice vote.

The Board moved to AIS 3(b) relating to Mayor Pro Tem Stephens.

Rory Heath spoke that this was the same issue, different person. Mr. Heath stated he felt the materials from the City Attorney’s Office were very biased. Asked again that this issue be reviewed instead by an independent panel of outside experts.

Andrew Bertrand spoke that this is very similar to the last argument and that Amendment 41 has been glossed over. The issue is about optics.

Mr. Heath spoke about financial benefits and drew a correlation with UNC announcing possible layoffs. If the development deal does not go through, CSU can experience those same realities. Mr. Heath stated he feels CSU is a business or other undertaking.

Mayor Pro Tem Stephens talked about the factual allegations and stated she does not take an oath to CSU. Ms. Stephens stated as far as Mr. Heath’s statement about career opportunities, this is not relevant. Mayor Pro Tem Stephens does not believe she has personal or financial interest in the CSU Hughes Stadium rezoning issue. Ms. Stephens insisted she is a state classified employee in the Statistics Department, and as a State classified employee, her pay is awarded by the state; CSU has no say in her pay raises.

Rory Heath rebutted this as follows. Mr. Heath stated Mayor Pro Tem Stephens is an employee on a one-year contract renewal who has to “sing for her supper” every year. There is a method for reward – better position, etc. Andrew Bertrand stated based on public perception, Mayor Pro Tem Stephens should have recused herself.
Mr. Heath stated we need to fix this hole in the system before voting on this. We need to address it now, not in the future.

Mayor Pro Tem Stephens’ rebutted his comments. Mayor Pro Tem Stephens stated she is not on a one-year contact. Mr. Heath’s facts are not true. Mayor Pro Tem Stephens stated she works for the State; there is no benefit or money involved in a rezoning and this is a City administration decision.

Councilmember Cunniff stated the Ethics Review Board is not free to ignore the City Charter or Code or adopt State rules in lieu of a City process. Doing so would be a violation of our Code to shift this decision to a group of other people. While members of this Board have expressed sympathy, we have to change the Charter by a specific process. This Board is required to follow City Code, Charter and State laws as they now apply.

Chair Pignataro directed the Board to go through the checklist attached to AIS 3b.

Chair Pignataro then made a motion that the Board find that having reviewed the allegations of Mr. Heath’s Complaint and the applicable laws, the Complaint fails to allege that Mayor Pro Tem Stephens has a financial or personal interest or conflict related to the decision on the Hughes Stadium property rezoning and no further investigation is warranted. Councilmember Gorgol seconded the motion. The motion passed by unanimous voice consent.

Chair Pignataro directed the Board to AIS 3c, relating to Ken Summers’ alleged personal, business-related conflicts of interest.

A statement Councilmember Summers had submitted to the Board was noted. Chair Pignataro asked City Attorney Daggett to read the statement.

Rory Heath stated this matter was a little more difficult. Councilmember Summers’ website advertises that he helps influence decisions. Mr. Heath stated the Board should subpoena the records of Councilmember Summers including any and all clients he has had. Mr. Heath stressed an investigation is needed here; this billboard is still up for the public to see.

Andrew Bertrand stated he was not sure how anyone voted, but doesn’t care; he cares about how it looks. Now is the time to deal with it – not after Hughes gets decided.

Councilmember Cunniff stated he would like to know if Councilmember Summers has received any revenue on this website.

City Attorney Daggett explained it was unclear in Mr. Heath’s complaint if this was tied to Hughes Stadium or a more general complaint. Ms. Daggett explained if the complaint warrants further investigation, there will be a need to schedule a further hearing for more evidence to be presented. At that time, the Board would have power to subpoena more information if it chooses to. City Attorney Daggett explained that this process would next go to the hearing step where a decision would be made as to whether the Complaint alleges a violation specifically related to Hughes Stadium or otherwise.
The Board asked Rory Heath if this complaint was related to Hughes Stadium.

Mr. Heath replied it was intended to include everything – including Hughes Stadium.

The Board discussed next steps in this process. City Attorney Daggett stated the Board could continue its screening review if that would be helpful or find that the allegation warrants further investigations.

Councilmember Cunniff stated the allegations of the Complaint are broader than Hughes and need further investigation, although regarding a specific complaint on Hughes, there is no evidence to sustain an allegation Councilmember Summers has acted unethically.

Councilmember Gutowsky did not agree with this and stated the Complaint cast doubt in her mind.

Councilmember Cunniff made a motion that the Board find that the allegation that political consulting and lobbying activities could constitute a potential ethics violation, if true, and that further Ethics Review Board investigation and review is warranted on the specific issue of whether Councilmember Summers has carried out political consulting or lobbying activities that constituted an ethics violation. Councilmember Gorgol seconded the motion. The motion was passed by unanimous voice consent.

City Attorney Daggett discussed the timing of the next meeting to review the one remaining allegation and stated her office would get started on scheduling the next meeting.

Under Other Business, the Board briefly discussed Amendment 41 of the State Constitution and stated this process was already in motion.

Meeting adjourned at 7:56
Ethics Review Board Meeting Minutes
March 13, 2020
5:00 p.m.

Alternative Ethics Review Board members in attendance: Councilmembers Julie Pignataro, Ross Cunniff, Susan Gutowsky and Emily Gorgol.

Staff in attendance: Carrie Daggett, City Attorney; Jeanne Sanford, Paralegal.

Public in Attendance: Councilmember Ken Summers; Complainant Rory Heath and approximately 15 members of the public.

A meeting of the City Council (alternate) Ethics Review Board (“Board”) was held on Friday, March 13, 2020, at 5:00 p.m. in the CIC Room, City Hall West.

The meeting began at 5:00 p.m. The Board reviewed the Agenda which contained the following items:

1. Selection of Presiding Officer for Ethics Review Board as it considers the pending complaint.
2. Review and Approval of the March 6, 2020 Minutes of the Ethics Review Board.
3. Hearing and investigation in accordance with City Code Section 2-569(e) of a complaint filed on January 21, 2020, by Rory Heath, alleging that political consulting/lobbying activities of Councilmember Ken Summers violate state and local ethics provisions.
4. Other Business.
5. Adjournment.

The first item on the agenda, selection of a Chair, was discussed. The Board unanimously consented to Councilmember Julie Pignataro continuing being the Chair.

The approval of the March 6, 2020, Minutes of the Ethics Review Board meeting was next on the Agenda. Councilmember Gorgol made a motion to approve the March 6, 2020, Minutes and Councilmember Susan Gutowsky seconded the motion. The Minutes of the March 6, 2020, Ethics Review Board meeting were approved by unanimous consent.

Chair Pignataro called up the next order of business, which was the discussion of the Complaint against Councilmember Summers.

City Attorney Carrie Daggett ran through the suggested hearing process that was highlighted in the Agenda Item Summary.

Chair Pignataro announced that each party would have a total of 15 minutes to speak and there was no objection from other members of the Board or either the Complainant or Councilmember Summers.

City Attorney Daggett ran through the Agenda Item Summary with attachments provided in the public packet with the addition of an email from Rory Heath received on Friday.
For his opening remarks, Rory Heath stated Mr. Summers was not present for the last Ethics Review Board meeting, but the crux of the matter was his website, www.kensummers.org and the statements such as “opening doors, empowering influence”, etc. Mr. Heath stated the existence of the website and those statements along with Mr. Summers’s representation on Council were the big issue. Mr. Heath stated this was tip of the iceberg and if Councilmember Summers had nothing to hide, why wouldn’t he open up his bank records for KGS?

For his opening remarks, Councilmember Summers stated Mr. Heath’s allegations were baseless and silly. Councilmember Summers explained having a website that is inactive is not in violation of any code of ethics. Mr. Summers further explained there was no nefarious activities going on due to the fact that he has a tab on a personal website called KGS Consulting. Mr. Summers continued that Mr. Heath has abused this process for political purposes because he does not like the fact that CSU owns property that the City is obligated to zone. Mr. Summers further stated that Mr. Heath has one paragraph of a complaint that I “voted against the 655 pages of public comments” Mr. Summers stated he checked with City Clerk and there were approximately 140 pages, not 655. Councilmember Summers stated he was glad Mr. Heath made it up from Colorado Springs to this meeting, which is interesting to note his interest in Fort Collins matters. Mr. Summers explained that in 2014, he attempted to acquire some work through this business due to his West Nile Virus disability, but never secured a client in those efforts. Mr. Summers concluded that Mr. Heath has an obligation to identify an interest he has that is in conflict to the zoning before Council and he has offered none.

For his presentation of evidence, Rory Heath stated he was glad Mr. Summers brought up his past. There was an interruption from Mr. Summers. Mr. Heath handed out some exhibits to the Board which included as Exhibit 1 a typed transcript of what was described as a statement by Councilmember Summers at the January 21, 2020, City Council meeting. Mr. Heath read Mr. Summers’s statement. Mr. Heath stated his Exhibit 2 was evidence of lobbying from the Secretary of State’s lobbyist website and his Exhibit 3 was client search results from the Colorado Secretary of State’s lobbyist registration and reporting website. The exhibits were handed out to the Board and to Mr. Summers. Mr. Heath stated these reports show there was lobbyist money and not only is Mr. Summers lying to all us, his website solicits work as a lobbyist, when he does not have a current lobbyist license.

In response, and as part of his presentation of evidence, Councilmember Summers rebutted by saying Mr. Heath doesn’t understand what is involved as a lobbyist and explained he was a consultant on one bill in two sessions in the years 2015 and 2016. Mr. Summers explained his lobbying efforts ended in 2016 and he submitted his financial disclosures as all City Councilmembers have to submit. Mr. Summers stated he did not make money as a lobbyist while on City Council and the clear evidence points to that.

In closing, Rory Heath stated in his rebuttal that without Councilmember Summers’s financial records, one is left with a grey area to take his word on this. Mr. Heath stated Councilmember Summers is not to be taken at his word and the things he has said are very scary. In closing, Mr. Heath stated the fact that Councilmember Summers’s LLC is still in operation and the website is still soliciting business, one can argue is negligence. He argued that the appearance of impropriety is an issue in and of itself and could be an offense. Mr. Heath finished by saying we do not have enough evidence as it relates to Hughes and how far this crime and dirt has gone; we need to look at every single action Councilmember Summers has
made so far. If Councilmember Summers has nothing to hide, then he should release his tax returns, bank statements and emails.

In closing, Councilmember Summers rebutted by stating those requests were ludicrous, insulting, and way over the top for any reasonable person to expect. Mr. Summers continued by stating Mr. Heath has the audacity to suggest that he has been lying for over 3 years now because I knew the zoning of Hughes would come up in 2020 and would request recommendation from our City Staff.

Councilmember Summers further stated in the original analysis of Rory Heath’s complaint, he wants opportunity for others to speak, no growth, walking trails only, etc. Those are statements of a lobbyist; He is lobbying without a license. Councilmember Summers stated he does not have a bank statement or a bank account for KGS Consulting.

At the conclusion of the comments by Rory Heath and Councilmember Summers, Chair Pignataro brought the discussion back to Board for questions. She asked City Attorney Daggett to explain to the Board and for the record the financial disclosures that Councilmember Summers had provided (attached to the Agenda Item Summary) and the legal nature of those.

City Attorney Daggett stated the financial disclosures are required by law and the statements follow a process required at the state level for state officials. She noted there is not a City process of investigation and/or checking that the reported income or other information is correct. Mr. Daggett did state there are legal consequences in filing an incorrect statement, but she did not have specific information about the nature of the consequences without further checking.

City Attorney Daggett went over the form and read it to the Board and the public and stated the completed Financial Disclosures are public documents and filed in the City Clerk’s Office.

Councilmember Cunniff directed a question to Mr. Heath and asked if his complaint against Councilmember Summers was regarding Hughes rezoning specifically or something nonspecific as well.

Mr. Heath stated yes, it is within reason that the most critical of issues, Hughes rezoning, is intended to be within the scope of this complaint.

Councilmember Cunniff directed a question to Councilmember Summers and asked if his financial disclosures were accurate and complete.

Councilmember Summers replied yes, they were accurate and complete.

Councilmember Cunniff asked City Attorney Daggett if there were any City Code prohibitions on Councilmembers having individual employment?

City Attorney Daggett stated no. She explained, however, there might be challenges if a Councilmember’s employment was funded by the City.

Councilmember Gutowsky asked City Attorney Daggett if there was problem with not having a license if one was a lobbyist.
City Attorney Daggett replied there is a state statute that lays out the requirements for registering as a lobbyist, which in some instances may be unclear; there are specific conditions that must be met or may create an exception. For example, there is a safe harbor provision for elected officials like councilmembers communicating with state officials that exempts them from having to register.

Councilmember Cunniff asked City Attorney Daggett to explain some examples of lobbyist activities.

City Attorney Daggett explained that generally, lobbying activities would include people getting paid by others to communicate with state officials within the administration of state government on behalf of payors on any policy or regulatory matters. Lobbyists are required to register and file reports on their activities. Ms. Daggett stated when someone is actually hired to lobby, that is a business relationship which is pretty clear.

Councilmember Gutowsky asked City Attorney Daggett if “lobbying” would be considered a job.

City Attorney Daggett responded by saying if there was no activity or income, it would be hard to call it a job.

Councilmember Gutowsky asked if there was a conflict of interest with lobbying. City Attorney Daggett stated no, not by definition.

Councilmember Gutowsky asked Councilmember Summers about his intentions with his webpage; he explained his website was just a placeholder to when he might come back to lobbying in the future; there was just no need to cancel the LLC now and restart it in the future.

City Attorney Daggett asked a question of Mr. Heath in that she has not seen or heard any particular, factual evidence Mr. Heath has identified to tie Councilmembers Summers to CSU, Hughes, or Lennar (the builder), so again asked Mr. Heath if there was some specific thing that gave him a belief that Councilmember Summers had or has a relationship with one of those entities?

Rory Heath replied it was too early in the investigation to be able to know, but it has the optics of impropriety.

City Attorney Daggett was asked to clarify how Councilmember jobs and business interests affect their participation in matters before Council. She stated that Councilmembers are allowed to have jobs and business interests and can participate in matters where those interests are not involved, but are not allowed to participate in a decision that relates in a way that creates a conflict of interest.

Councilmember Cunniff stated he has seen no evidence that anything specific happened with respect to Hughes and that is what the Ethics Review Board needs to look for -- specifics, not hypotheticals. Councilmember Cunniff then stated absent any specifics, he did not see how the Board could conclude there was a conflict of interest in this case.

Chair Pignataro responded by stating that is why the Board is here tonight; we did not have evidence. Councilmember Summers has now offered evidence he did not have a conflict.

Councilmember Gorgol made a motion that the Board find that, based on the evidence presented, Councilmember Summers has not engaged in the business of lobbying or political consulting during his
time on Council, and that the Board conclude for that reason that no state or local ethics violation has been shown.

Councilmember Gutowsky seconded the motion and the Board approved the motion by unanimous vote.

Councilmember Gorgol spoke about grey area and public trust and stated all councilmembers take their oaths very seriously and the Ethics Review Board is an important part of looking at that. Ms. Gorgol further stated that the idea that Councilmembers are lying and do not take these matters seriously, is offensive.

Councilmember Cunniff stated regardless of emotions which are running high, the Board is charged with looking at the City Charter very narrowly and we did not see evidence of a financial or personal conflict largely because no income was earned during Ken Summers’s term on Council.

Under Other Business, City Attorney Daggett suggested she could generate an Opinion quickly if the Board took a break and then if the Opinion was acceptable, City staff could get the item on the agenda for Council consideration next Tuesday night.

The Board agreed to take a fifteen minute break.

The Board reconvened at 6:28 pm and City Attorney Daggett brought a draft of Opinion 2020-01 for the Board to review and consider. City Attorney Daggett explained the next process, once the Board approves the Opinion, would be to schedule Council consideration of a Resolution for next Tuesday night, which would have the Opinion attached. City Council, minus Ken Summers, would vote on the Resolution to accept and adopt the Opinion.

Councilmember Cunniff made a motion for the Board to approve the Opinion 2020-01 and Councilmember Gorgol seconded the motion. The motion was approved by unanimous vote.

The Board inquired if there was any other business and with no replies, the meeting was adjourned at 6:38 pm.
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF

Cameron Gloss, Planning Manager
Tom Leeson, Director, Comm Dev & Neighborhood Svrs
Brad Yatabe, Legal

SUBJECT

Postponement of Public Hearing and Second Reading of Ordinance No. 138, 2019, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hughes Stadium Site Rezoning and Approving Corresponding Changes to the Residential Neighborhood Sign District Map to May 19, 2020.

EXECUTIVE SUMMARY

Postponement of this item to May 19, 2020, is requested to allow time for the stay-at-home order to be lifted and allow for in-person public participation in quasi-judicial matters.

This Ordinance, adopted on First Reading on November 5, 2019, by a vote of 4-3 (Nays: Cunniff, Gutowsky, Pignataro), rezones 164.55 acres located on the west side of Overland Trail and north of CR32, with one condition, and to place the property into the Residential Sign District. City Council initiated the rezoning on July 16, 2019 and directed City staff to prepare a rezoning application and make a recommendation regarding the appropriate zoning. The site is currently zoned Transition (T) and staff recommends placement into the Residential Foothills (RF) and Low-Density Mixed-Use Neighborhood (LMN) zone districts. A recommended condition of the rezone requires that future development in the portion zoned Residential Foothills district meet the requirements of a Cluster Plan pursuant to Land Use Code Section 4.3(E)(2). The request places the property into the Residential Sign District. The Planning and Zoning Board on a 4-2 vote recommended that City Council not adopt the staff proposed zoning and instead zone the property entirely Residential Foothills.

Second Reading hearing procedure:
1. Announcement of item
2. Consideration of any procedural issues
3. Additional City staff presentation, if any, regarding the rezoning application
4. Additional property owner presentation, if any, regarding the rezoning application
5. Public testimony
6. City staff and property owner rebuttal testimony
7. Councilmember questions of staff, the property owner, and members of the public that provided comments
8. Council decision

Any member of the public, including the property owner of the property being considered for rezoning, who wishes to provide materials to City Council for consideration in relation to this item must provide such information to the City Clerk no later than noon on April 21 as required pursuant to Section 3.g.(2) of the Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.
BACKGROUND / DISCUSSION

Second Reading of this Ordinance was delayed due to a citizen ethics complaint alleging that Mayor Troxell and Mayor Pro Tem Stephens have a financial interest and a personal interest in the Hughes Stadium annexation property rezoning decision, and an allegation that Mayor Troxell had a conflict of interest in light of National Association of Realtors Fund campaign activities in 2017. On December 16, 2019, the Alternate Ethics Review Board conducted an initial review and concluded that the complaints did not merit further investigation or action.

Since November 5, 2019, staff has received relatively few additional public comments and questions. Citizen inquires have focused on three main areas:

1. Clarification on the residential and non-residential uses, and density and range of housing types, permitted under the proposed RF and LMN zone districts
2. A request for the City to purchase the site for affordable housing
3. Clarification that the City of Fort Collins will continue to be the water service provider to the property.

ATTACHMENTS

1. First Reading Agenda Item Summary, November 5, 2019 (w/o attachments) (PDF)
2. Public Comments received November 6, 2019 through March 10, 2020 (PDF)
3. Public Comments received March 11 through March 25, 2020 (PDF)
4. Public Comments Received Between March 26 and April 15, 2020 (PDF)
5. Ordinance No. 138, 2019 (PDF)
AGENDA ITEM SUMMARY
City Council
November 5, 2019

STAFF
Cameron Gloss, Planning Manager
Tom Leeson, Director, Comm Dev & Neighborhood Svrs
Brad Yatabe, Legal

SUBJECT
First Reading of Ordinance No. 138, 2019, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hughes Stadium Site Rezoning and Approving Corresponding Changes to the Residential Neighborhood Sign District Map.

EXECUTIVE SUMMARY
The purpose of this item is to rezone 164.55 acres located on the west side of Overland Trail and north of CR32 (parcel # 9720100913) with one condition and to place the property into the Residential Sign District. City Council initiated the rezoning on July 16, 2019 and directed City staff to prepare a rezoning application and make a recommendation regarding the appropriate zoning. The site is currently zoned Transition (T) and staff recommends placement into the Residential Foothills (RF) and Low-Density Mixed-Use Neighborhood (LMN) zone districts. A recommended condition of the rezone requires that future development in the portion zoned Residential Foothills district meet the requirements of a Cluster Plan pursuant to Land Use Code Section 4.3(E)(2). The request places the property into the Residential Sign District. The Planning and Zoning Board on a 4-2 vote recommended that City Council not adopt the staff proposed zoning and instead zone the property entirely Residential Foothills.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

I. Site History

The subject property was annexed into the City of Fort Collins with City Council approval of the Hughes Stadium Site Annexation Ordinance 123, 2018, on October 16, 2018. The property was placed into the Transition (T) zone district.

The Hughes property was previously a federally owned parcel that was gifted to the Colorado Board of Agriculture in September 1957 almost 10 years after the Horsetooth Reservoir construction started. The Reservoir was completed in 1949, with the first water storage in Horsetooth Reservoir in January 1951. The BLM first transferred the property to the Department of Health, Education and Welfare and ownership was then transferred to the Board of Agriculture. Other than a gravel pit fronting on Overland Trail that provided extracted materials for the Horsetooth Reservoir construction, and dry land farming on the northernmost twenty acres, the site remained vacant and in an unaltered state until the 1960s.

Hughes Stadium, and a large parking lot covering much of the site, was constructed in 1967 and opened in 1968. In addition to football games, the stadium hosted music concerts, rodeos, Ag Days, and other public events. A
regional stormwater detention pond of approximately 27 acres was constructed in 1997 on the east/southeast portion of the site within the rodeo grounds that covered the previously mined area. The detention pond was constructed as a result of the historic flood event and designed to accommodate stormwater flows originating from the site as well as parcels to the north and northwest. In 2011, an 18-hole disc golf course was developed by the City in conjunction with CSU within the detention pond area.

CSU closed Hughes Stadium before the 2017-2018 school year, after completion of the on-campus Canvas Stadium. Site demolition and construction materials recycling and disposal was completed April - November 2018. The former stadium foundation remains about 10 feet below the ground surface.

**Surrounding Zoning and Land Use**

<table>
<thead>
<tr>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning: Medium Density</td>
<td>POL (Public Open Lands); County FA-1 - Farming</td>
<td>Medium Density Mixed-Use Neighborhood (MMN); County FA-1 - Farming</td>
<td>POL (Public Open Lands); County FA-1 - Farming</td>
</tr>
<tr>
<td>Mixed-Use Neighborhood (MMN); County FA-1 - Farming</td>
<td>Pineridge Natural Area; single family house.</td>
<td>Single and multi-family residential (Trail West, Willow Lane, Stadium Heights); Drive-in Movie Theater</td>
<td>Maxwell Natural Area; vacant (owned by US Bureau of Reclamation)</td>
</tr>
</tbody>
</table>

**History of Long-Range Plans Pertaining to the Site**

Designation of the Hughes Stadium site as an area slated for urban growth has changed substantially over the last 50 plus years:

- **1967**-The first “modern” comprehensive plan, "The Plan for Progress" was adopted. The Plan recommended that an expressway be constructed west of Overland Trail connecting the “LaPorte area southerly to the west border of Loveland”. The “CSU Stadium” was noted on the Plan and Light Industrial land uses were recommended north of the Stadium along the west side of Overland Trail.
- **1974**-The City’s first Open Space Plan, and also the first element of a new Comprehensive Plan, was adopted. This Plan provided the initial strategy for acquiring and preserving land for open space (eventually becoming the Natural Areas program). The Open Space Plan recommended acquisition of land areas within the foothills designated for geologic hazard, all of which are located at elevations higher than the Hughes site. (Attachment 1)
- **1979**-Urban Service Area Study; City Council adopted the Land Use Policies Plan and included this land use element in the Intergovernmental Agreement for the Fort Collins Urban Growth Area (UGA) adopted the following year. Properties west of Overland Trail, except for the Miller Property abutting the Hughes Stadium site to the north, were excluded from the UGA at that time.
- **1982**-Foothills Area Study: Five privately held parcels west of Overland Trail were surveyed, four of which were recommended for inclusion in the UGA and changed in designation from Rural to the Rural Non-Farm designation and the maximum residential density increased from 1 unit per 35 acres to 1 unit per 2.29 acres.

The study established the following guidelines (suggested) and standards (required) for the foothills area:

1. Public water and sewer utilities will be required. (standard)
2. Structures should be placed below the 5,200’ elevation line in order to avoid physical constraints and ridgelines, and to facilitate water service.
3. Underground utilities will be required. (standard)
4. Development should be designed to conform to the terrain of the area.
5. Design should demonstrate a concern for the view of the foothills as well as from the foothills.
6. Design should take into account the unique micro-climate of the area, particularly high winds.
7. Design should consider wildlife habitat.
Agenda Item 12

8. Design should address compatibility with existing and planned uses on adjacent public and private lands.

- 1986-Urban Growth Area (UGA) amendment west of Overland Trail, adding 1,360 acres along the Foothills and creation of a new Residential Foothills (RF) zone district allowing either a standard subdivision of 1 dwelling unit per 2.29 acres or a “Cluster Development Plan with a gross density of 1 dwelling unit per acre. No structure could extend above the 5,250-foot elevation under the RF district.

- 1992-Natural Areas Policy Plan adopted that built upon the Open Space Plan and Foothills Area Study and was an ‘element’ of the Comprehensive Plan. Maps contained within the Plan do not include the Hughes Stadium site as part of the foothills resource area.

- 1997-First version of a new Comprehensive Plan, known as “City Plan,” adopted. The original City Plan provided a fundamental shift in the community’s land use planning strategy, one that required the mixing of residential densities and uses within newly developing areas. New land use designations shown on a Structure Plan map were the Low-Density Mixed-Use Neighborhood and the Medium Density Mixed-Use Neighborhood. The Hughes Stadium site was located outside of the Growth Management Area (renamed from the previous Urban Growth Area).
  o The RF zone district was carried forward into City Plan recognizing the previous analysis and policy direction of the Foothills Area Study.
  o The Master Street Plan amended to remove the roadway extension of Overland Trail between Drake and Harmony Roads.

- 2011-City Plan updated along with a parallel effort to update the Transportation Master Plan. Hughes Stadium site identified as an “area for future GMA expansion”.

II. Applicable Development Standards

Division 2.9 - Amendment of Zoning Map

<table>
<thead>
<tr>
<th>Applicable Code Standard</th>
<th>Summary of Code Requirement and Analysis</th>
<th>Staff Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.9.2 - Applicability</td>
<td>Only the Council may, after recommendation of the Planning and Zoning Board, adopt an ordinance amending the Zoning Map in accordance with the provisions of Division 2.9.</td>
<td>Complies</td>
</tr>
<tr>
<td>2.9.3 - Initiation</td>
<td>An amendment to the Zoning Map may be proposed by the Council, the Planning and Zoning Board, the Director or the owners of the property to be rezoned. On July 16, 2019, City Council initiated the rezoning of the former Hughes Stadium site.</td>
<td>Complies</td>
</tr>
<tr>
<td>2.9.4 - Text and Map Amendment Review Procedures</td>
<td>In order to approve a proposed rezoning of 640 acres of land or less (quasi-judicial) the decision maker must find that it satisfies the following criteria: The proposed amendment is: (a) consistent with the City Comprehensive Plan (City Plan); and/or (b) warranted by changed conditions within the neighborhood surrounding and including the subject property. The Planning and Zoning Board and City Council may consider the following additional factors: (a) whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land; (b) whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and natural functioning of the environment; (c) whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.</td>
<td>Complies</td>
</tr>
</tbody>
</table>
III. Rezoning Procedural Overview

1. Neighborhood Meeting (August 8, 2019)
   If a quasi-judicial map amendment is the subject of a known controversy, a neighborhood meeting may be
   conducted prior to submittal of a formal development application. Staff convened a neighborhood meeting
   in accordance with the Land Use Code on August 8, 2019.

2. Application Submittal
   A formal rezoning application was submitted by City staff on August 23, 2019. Staff performed one round of
   review through applicable City Departments and referral agencies.

3. Review of Applications
   All City staff involved in the development review process reviewed the application.

4. Notice (Posted, Written and Published)
   Posted Notice (REZ190001): March 22, 2019, Sign # 431
   Written notice: September 5, 2019, 8,400 letters sent to both owners and renters.
   Published Notice: Sept 8, 2019

5. Planning and Zoning Board Public Hearing
   The Planning and Zoning Board conducted a public hearing on September 19, 2019, and made a formal
   recommendation to City Council. In making its recommendation on a quasi-judicial rezoning, the Planning
   and Zoning Board must make the following mandatory findings that the proposed amendment is:
   (a) consistent with the City’s Comprehensive Plan; and/or
   (b) warranted by changed conditions within the neighborhood surrounding and including the subject
   property.
   Further, the Board may consider the following factors:
   (a) whether and the extent to which the proposed amendment is compatible with existing and
   proposed uses surrounding the subject land and is the appropriate zone district for the land;
   (b) whether and the extent to which the proposed amendment would result in significantly adverse
   impacts on the natural environment, including, but not limited to, water, air, noise, stormwater
   management, wildlife, vegetation, wetlands and the natural functioning of the environment;
   (c) whether and the extent to which the proposed amendment would result in a logical and orderly
   development pattern

6. City Council Public Hearing
   The City Council will conduct a public hearing and decide on the proposed rezoning based on the quasi-
   judicial rezoning review criteria.

IV. City Plan (Comprehensive Plan) Background

City Plan provides the primary adopted plan and policy document applied to rezoning applications. This section
summarizes the relevant policies applicable to the rezoning and the ‘place types’ depicted on the recently revised
Structure Plan Map. As necessary, this staff report includes analyses related to City Plan.

In April 2019, City Council adopted a revised City Plan that repealed and replaced the 2011 version.

A. City Plan Outcome Areas

The 2019 City Plan is organized based on seven outcome areas that form the basis of the City’s Budgeting for
Outcomes (BFO) process. These outcome areas are:

1. Neighborhood Livability and Social Health
2. Culture and Recreation
3. Economic Health
4. Environmental Health
5. Safe Community
6. Transportation
7. High Performing Community
Three core values guide the vision for City Plan: livability, community, and sustainability. Each outcome area has a series of statements indicating how the principles and policies of each outcome area align with the core values. Action plans accompany each outcome area to ensure implementation of City Plan. The applicable vision statements are:

1. **Neighborhood Livability and Social Health**
   - Encouraging a welcoming, equitable community that celebrates diversity
   - Requiring adequate public facilities and infrastructure to serve existing development and new growth
   - Maintaining our unique character and sense of place
   - Encouraging the development of quality and affordable housing options for residents of all income levels
   - Managing where and how the city grows in the future
   - Reducing the impacts of our built environment on the natural environment
   - Providing residents with opportunities to live healthy, safe, and active lifestyles
   - Preserving historic resources and character-defining features that make Fort Collins unique
   - Promoting the use of sustainable-building and site-design techniques
   - Creating a distinctive and attractive community that is appealing to workers, visitors, and residents

2. **Culture and Recreation**
   - Increasing access to arts, culture and recreation opportunities for all residents and visitors
   - Encouraging a welcoming, equitable community that celebrates diversity

3. **Economic Health**
   - Reducing identified barriers of workforce attraction and retention, including access and affordability of housing and childcare

4. **Safe Community**
   - Using ecosystem services and other natural functions of the environment to enhance our safety and help protect us from natural hazards
   - Mitigating risks posed by natural hazards to businesses and property
   - Encouraging healthy living through active transportation and physical activity
   - Guiding development away from high-risk areas

5. **Transportation**
   - Adapting to changes in technology, demographics and mobility-as-a-service with new transportation modes and partnerships
   - Identifying the types of transit services that can grow and leverage changing transportation technologies, while still providing access to a broad section of the community to critical transit services
   - Integrating land use and transportation planning and investments
   - Providing a safe, convenient and connected transportation network for all modes
   - Building an equitable bicycle and pedestrian network to serve residents of all ages and abilities
   - Designing the City’s transportation facilities and network to be reliable, affordable, efficient, connected and comfortable

6. **High Performing Community**
Ensuring that all members of the community are involved in decision making
Maintaining efficient and effective local government processes that reduce barriers to innovation and economic development
Using a triple bottom line that incorporates equity and considers the social, economic and environmental impacts of decisions.

B. Trends and Forces Report

A report was prepared during the first phase of the City Plan Update that highlighted major trends and key issues facing the community. This Trends and Forces Report highlighted those choices and trade-offs that needed to be explored in light of both trends and existing conditions.

Of these trends, one of the major areas of focus for the City Plan update was the challenges that Fort Collins faces in the provision of housing.

- Since 2000, Fort Collins and Larimer County have produced more jobs than housing units, and the jobs-housing imbalance has recently accelerated. At the same time, rents and home prices in Fort Collins have been increasing faster than wages.
- The demographic composition of Fort Collins is changing dramatically. The population is aging (particularly those over the age of 65) and will represent a larger percentage of the City’s population in the future. However, younger adults are also moving to Fort Collins in increasing numbers, attracted by employment opportunities and quality of life. This trend is expected to continue. As a result, the composition of demand for housing in Fort Collins will undoubtedly shift. Some of these shifts are being driven by younger residents who prefer different housing options and from older residents who no longer have the desire and/or ability to maintain their single-family home.
- The difficulty providing additional housing to meet our needs is increasingly constrained by a limited supply of vacant land.
- Based on current trends, our supply of vacant land will be exhausted by 2040.
- Unlike the Hughes property, most of the vacant land in the GMA is not served by City sewer and water utilities. This dynamic could impact the availability, timing, and pricing of future development.

This need for additional housing and a greater range of housing choice has become a growing community concern over the last decade given changes to the jobs-housing balance and demographics. Public engagement during the City Plan Update, which included the participation of nearly 4,000 members, consistently showed housing availability and affordability as the top-cited community challenge. This has also been borne out in results of recent Community Surveys where citizens have rated our housing affordability lower than national and Front Range benchmarks.

C. Structure Plan Map

The Structure Plan Map in City Plan provides a framework for the ultimate buildout of Fort Collins. It focuses on the physical form and development pattern of the community, illustrating areas where new greenfield development, infill, and redevelopment is likely to occur, as well as the types of land uses and intensities to encourage. The Structure Plan:

- Guides future growth and reinvestment and serves as official Land Use Plan for the City;
- Informs planning for infrastructure and services;
- Fosters coordinated land use and transportation decisions within the city and region; and
- Helps implement principles and policies.

The Growth Management Boundary (GMA) was expanded during the 2019 Update to include the Hughes Stadium site because of City Plan conclusions provided in 2011 and for the need of additional housing described in the Trends and Forces Report. The revised GMA boundary is reflected on the Structure Plan Map.
One of the most significant changes to the 2019 City Plan from the 2011 version is the use of “place types” on the Structure Plan Map to describe future development character rather than land use districts. “Place type” descriptions provide a set of visual and narrative criteria to describe the look, feel, and general character of a part of the community. Thirteen (13) place types, describing three types of neighborhoods, eight districts, and two open lands categories are depicted on the Structure Plan.

Two place types are designated on the Hughes Stadium site: Suburban Neighborhood on the west half and Mixed-Use Neighborhood on the east half which are generally described below.

1. **Suburban Neighborhood Place Type**

   **Density**
   Between 2 and 5 principal dwelling units per acre

   **Principal Land Use**
   Single-family detached homes

   **Supporting Land Use**
   Parks and recreational facilities, schools, places of worship, accessory dwelling units in some locations (where permitted by underlying zoning)

   **Key Characteristics/Considerations**
   Comprised of predominantly single-family detached homes
   Neighborhood Centers may serve as focal points within Single-family Neighborhoods (see Neighborhood Mixed-Use District)
   Amenities and infrastructure encourage walking and biking, but transit service is typically more limited

   **Typical Types of Transit:**
   Limited local bus service with frequencies of approximately every 60 minutes; some locations may also be served by flex services

2. **Mixed Neighborhood Place Type**

   **Density**
   Between 5 and 20 principal dwelling units per acre (typically equates to an average of 7 to 12 dwelling units per acre)

   **Principal Land Use**
   Single-family detached homes, duplexes, triplexes and townhomes

   **Supporting Land Use**
   Accessory dwelling units, small-scale multi-family buildings, small-scale retail, restaurants/cafes, community and public facilities, parks and recreational facilities, schools, places of worship

   **Key Characteristics/Considerations (New Neighborhoods)**
   Provide opportunities for a variety of attached and detached housing options and amenities in a compact neighborhood setting; some neighborhoods also include (or have direct access to) small-scale retail and other supporting services
   Neighborhood Centers should serve as focal points within Mixed-Neighborhoods (see Neighborhood Mixed-Use District)
   Typically located within walking/biking distance of services and amenities, as well as high frequency transit
   Mixed-Neighborhoods built in a greenfield context should include a mix of housing options (lot size, type, price range, etc.).
   Where townhomes or multi-family buildings are proposed in an existing neighborhood context, a transition in building height, massing, and form should be provided along the shared property line or street frontage.
   As existing neighborhoods change and evolve over time, rezoning of some areas may be appropriate when paired with a subarea or neighborhood planning initiative.

   **Typical Types of Transit**
   In areas on the lower end of the density range, service will be similar to Single-Family Neighborhoods; as densities approach 20 dwelling units per acre, fixed-route service at frequencies of between 30-60 minutes

D. **Use of the Structure Plan in a Rezoning Evaluation**

City Plan sets specific direction on how the Structure Plan is to be used when evaluating a rezoning:
“How to Use the Structure Plan

The Structure Plan establishes a broad vision for future land uses in Fort Collins. In most cases, land use categories generally follow existing parcel lines, roadways, and other geographic boundaries. If the place type boundary shown on the Structure Plan map does not follow an existing parcel line, the actual delineation of place types will be established at the time of a proposed rezoning and development submittal.

Underlying zoning was reviewed and considered as updates to the Structure Plan were made to ensure that consistency between planned land uses and zoning could be maintained to the maximum extent feasible. However, in some instances, place type categories do differ from underlying zoning, as was necessary to meet the broader objectives of the Plan. To fully achieve the Plan’s objectives, rezoning may be required when some properties develop or redevelop in the future.

Future zone changes should generally adhere to the place type boundaries depicted in the Structure Plan, but flexibility in interpretation of the boundary may be granted provided the proposed change is consistent with the principles, goals, and policies contained in this Plan. Density ranges outlined for each place type category are based on gross acreage and are intended to address overall densities for a particular area rather than for individual parcels.

The Structure Plan is not intended to be used as a standalone tool; rather, it should be considered in conjunction with the Transportation Plan, and the accompanying principles, goals, and policies contained in this Plan”.

E. City Plan Principles and Policies

The rezoning application must also be evaluated based upon the principles and policies found in City Plan. The most applicable principle and policies highlighted below reflect expressed community values related to open land preservation, support for natural ecosystems, the efficient use of urban land and the need to supply housing to meet both immediate and future needs.

Principle ENV 1: Conserve, create and enhance ecosystems and natural spaces within Fort Collins, the GMA and the region.

POLICY ENV 1.1 - PUBLICLY CONTROLLED OPEN LANDS

Maintain a system of publicly controlled natural areas to maintain the integrity of wildlife habitat and conservation sites, protect corridors between natural areas, conserve outstanding examples of Fort Collins’ diverse natural heritage, and provide a broad range of opportunities for educational, interpretive and recreational programs to meet community needs.

POLICY ENV 1.2 - LAND CONSERVATION AND STEWARDSHIP

Continue to acquire, manage, maintain and enhance public open lands and natural areas in accordance with the City’s Natural Areas Master Plan to ensure the protection of plants and animals in need of conservation and their associated ecosystems; support biodiversity; control the invasion and spread of non-native plants; improve aesthetics; and provide opportunities for appropriate public use.
POLICY ENV 1.3 - NATURE IN THE CITY

- Conserve, protect and enhance natural resources and high-value biological resources throughout the GMA by:
- Directing development away from natural features to the maximum extent feasible;
- Identifying opportunities to integrate or reintroduce natural systems as part of the built environment to improve habitat in urbanized areas and expand residents’ access to nature;
- Utilizing green infrastructure to manage stormwater and increase greenspace in public rights-of-way and as part of public and private development; and
- Supporting the use of a broad range of native landscaping that enhances plant and animal diversity.

POLICY ENV 1.6 - WILDLIFE CORRIDORS

Conserve and enhance wildlife movement corridors through a network of public open lands and natural habitat buffers along natural features such as streams and drainageways.

Policy LIV 1.6 - ADEQUATE PUBLIC FACILITIES

Utilize the provision of public facilities and services to direct development to desired location, in accordance with the following criteria:

Direct development to locations where it can be adequately served by critical public facilities and services such as water, sewer, police, transportation, schools, fire, stormwater management and parks, in accordance with adopted levels of service for public facilities and services.

Principle LIV 5: Create more opportunities for housing choices.

Policy LIV 5.1 - HOUSING OPTIONS

To enhance community health and livability, encourage a variety of housing types and densities, including mixed-used developments that are well served by public transportation and close to employment centers, shopping, services and amenities.

Policy LIV 5.2 - SUPPLY OF ATTAINABLE HOUSING

Encourage public and private sectors to maintain and develop a diverse range of housing options, including housing that is attainable (30% or less of monthly income) to residents earning the median income. Options could include ADUs, duplexes, townhomes, mobile homes, manufactured housing and other “missing middle” housing types.

Policy LIV 5.3 - LAND FOR RESIDENTIAL DEVELOPMENT

Use density requirements to maximize the use of land for residential development to positively influence housing supply and expand housing choice.

V. ZONING SCENARIOS

Based on the two “place types” described in City Plan, as well as the site context and evaluation of public comments received through the community engagement process, five prospective zoning districts were considered: Residential Foothills (RF), Urban Estate (UE), Low-Density Mixed-Use Neighborhood (LMN), Medium-Density Mixed-Use Neighborhood (MMN) and Public Open Lands (POL). Five options were developed that combined these first four districts as ‘scenarios’ that were included in the public evaluation. The Public Open Lands district was not brought forward as this district is limited to publicly owned property.

The five scenarios are reflected in Attachment 7.
Agenda Item 12

1. RF zoning on western half and LMN zoning on eastern half, with a requirement that the RF-zoned area meet the standards for a “cluster plan”.
2. RF zoning on western half and MMN zoning on eastern half, with a requirement that the RF-zoned area meet the standards for a “cluster plan”.
3. UE zoning on western half and MMN zoning on eastern half, with a requirement that the UE-zoned area meet the standards for a “cluster plan”.
4. UE zoning on western half and LMN zoning on eastern half, with a requirement that the UE-zoned area meet the standards for a “cluster plan”.
5. UE zoning on western half and a mix of MMN and LMN zoning on eastern half, with a requirement that the UE-zoned area meet the standards for a “cluster plan”.

Article 4 of the Land Use Code provides use and development standards pertaining to various zone district and the review process applicable to each use type. Allowed uses are as follows:

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Residential Foothills (RF)</th>
<th>Urban Estate (UE)</th>
<th>Low-Density Mixed-Use Neighborhood (LMN)</th>
<th>Medium-Density Mixed-Use Neighborhood (MMN)</th>
<th>Public Open Lands (POL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory buildings</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Accessory uses</td>
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<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Farm animals</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
</tr>
<tr>
<td>Urban agriculture</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Agricultural activities</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
</tr>
<tr>
<td>Off-site construction staging</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Wireless Telecommunication Equipment</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Neighborhood Parks</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Cemeteries</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 1</td>
</tr>
<tr>
<td>Short term primary rentals</td>
<td>Prohibited</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
</tr>
<tr>
<td>Shelters for victims of domestic violence</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>BDR</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Parks, recreation and other Open Lands</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
</tr>
<tr>
<td>Single-family detached dwellings</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Residential Cluster Developments</td>
<td>Type 1</td>
<td>Type 2</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Single-family attached dwellings</td>
<td>Prohibited</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Two-family dwellings</td>
<td>Prohibited</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Group homes for up to 8 occupants</td>
<td>Prohibited</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Group homes with More than 8 occupants</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
<td>Type 2</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Multi-family dwellings &gt;8 units per building, &gt;50 units, or &gt;75 bedrooms</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
<td>Type 2</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Long-term care facilities</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
<td>Type 2</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Mixed-Use Dwellings</td>
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<td>Prohibited</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Mobile Home Parks</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
<td>Type 2</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Extra Occupancy Rentals &gt;4 tenants</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
</tr>
<tr>
<td>Fraternity and sorority houses</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Type 2</td>
</tr>
<tr>
<td>Minor public facilities</td>
<td>Prohibited</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Public and private Elementary, Intermediate and High school education</td>
<td>Type 1</td>
<td>Type 2</td>
<td>Type 1</td>
<td>Type 1</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

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Land Use | Residential Foothills (RF) | Urban Estate (UE) | Low-Density Mixed-Use Neighborhood (LMN) | Medium-Density Mixed-Use Neighborhood (MMN) | Public Open Lands (POL)
---|---|---|---|---|---
Places of worship or assembly | Type 1 | Type 2 | Type 1 | Type 1 | Prohibited
Community facilities | Prohibited | Prohibited | Type 1 | Type 1 | Prohibited
Neighborhood support/recreational facilities | Prohibited | Prohibited | Type 1 | Type 1 | Prohibited
Seasonal overflow shelters | Prohibited | Prohibited | Type 1 | Type 1 | Prohibited
Minor public facilities | Type 1 | Type 1 | Type 1 | Type 1 | Prohibited
Wildlife rescue and Education centers | Type 2 | Type 2 | Type 2 | Prohibited | Type 2
Convenience retail w/o fuel sales | Prohibited | Prohibited | Prohibited | Type 2 | Prohibited
Restaurant, limited Mixed-use | Prohibited | Prohibited | Prohibited | Type 1 | Prohibited
Golf courses | Type 2 | Type 2 | Type 2 | Prohibited | Type 2
Childcare centers | Prohibited | Type 2 | Type 1 | Type 1 | Prohibited
Bed and Breakfast 6 or fewer beds | Type 2 | Type 2 | Type 1 | Type 1 | Prohibited
Plant nurseries & greenhouses | Type 2 | Type 2 | Prohibited | Prohibited | Prohibited
Farmer’s Market if in a park or central feature | Prohibited | Prohibited | Prohibited | Type 1 | Prohibited
Large/farm animal Boarding | Prohibited | Type 2 | Prohibited | Prohibited | Prohibited
Adult day/respite Care | Prohibited | Type 2 | Type 1 | Prohibited | Prohibited
Small-scale reception centers | Prohibited | Type 2 | Prohibited | Prohibited | Prohibited
Resource extraction | Prohibited | Type 2 | Prohibited | Prohibited | Prohibited
Composting facilities | Prohibited | Type 2 | Prohibited | Prohibited | Type 1
Accessory buildings/ uses <2,500 sq. ft. | Prohibited | Type 2 | Type 2 | BDR | Prohibited
Accessory buildings/ uses >2,500 sq. ft. | Prohibited | Type 2 | Prohibited | BDR | Prohibited
Neighborhood Center With at least 2 Commercial/service uses | Prohibited | Prohibited | Type 1 | Prohibited | Prohibited
Personal/business service shops | Prohibited | Prohibited | Prohibited | Type 2 | Prohibited
Offices, financial Services, clinics | Prohibited | Prohibited | Prohibited | Type 2 | Prohibited
Small and medium- Scale solar energy systems | Type 2 | Type 2 | Type 2 | Type 2 | Prohibited
Resource recovery | Prohibited | Prohibited | Prohibited | Prohibited | Type 2

All uses that are not expressly allowed as permitted uses above are prohibited

Staff recommends Option 1 that provides the combination of the RF (conditioned upon the requirement for a cluster development plan) and LMN zone districts. Clustering on the RF portion of the site will provide more habitat for wildlife corridors along the foothills, require less new utility and street infrastructure, and better maintain a more ‘open’ character. Common open space areas could be sited to contribute to a larger network of green spaces adjacent the site. Further, the LMN portions of the site provide an opportunity to create a new neighborhood that provides a wide variety of housing choices that are fully integrated into the surrounding community. The LMN district has the capacity to provide a small neighborhood center that provides a focal point for residents and services benefitting the surrounding area.

Residential Foothills (RF) District

The Residential Foothills zone district predates the original City Plan and Land Use Code (1997) and has its origins in the Foothills Area Study (1982) embodied in the first Intergovernmental Agreement (IGA) between the City and Larimer County. The IGA restricts all development below a datum of 5,250 feet in elevation, above which no structure can project, to protect the community’s foothills backdrop. The Study concluded that the Foothills area should be changed from a Rural designation to a Rural Non-Farm designation and residential density allowed to increase from 1 unit/35 acres to 1 unit/2.2.9 acres.
The RF District provides two options for development: single-family houses on individual lots at least 2.29 acres in size, or single-family houses clustered at a gross density of one unit per acre.

Three development plans have been approved and constructed within the Residential Foothills Zone: Burns Ranch at Quail Ridge, The Ponds at Overland, and Bella Vira. All portions of these developments lying within the RF zone district have been ‘cluster developments’.

Of these projects, the Ponds at Overland (1995) was the most controversial during the development review process. The project was approved as a cluster plan of 284 single family lots on 284.23 acres, with clustering at 3 to 5 units per acre on developed portions of the property. An appeal of the Planning and Zoning Board approval of the project to City Council from a citizen’s group “Friends of the Foothills” showed objections based on perceived negative impacts of density, site grading, aesthetics to the foothills, traffic congestion, storm drainage, wildlife habitat, trail access, and to impacts to noise, air, and community stress levels.

Low-Density Mixed-Use Neighborhood (LMN) District

The Low-Density Mixed-Use Neighborhood (LMN) district was created in 1997. The LMN district became the predominant zoning district applied to vacant undeveloped parcels since that time. The purpose of the LMN District expressed in the Land Use Code:

The Low-Density Mixed-Use Neighborhood District is intended to be a setting for a predominance of low-density housing combined with complementary and supporting land uses that serve a neighborhood and are developed and operated in harmony with the residential characteristics of a neighborhood. The main purpose of the District is to meet a wide range of needs of everyday living in neighborhoods that include a variety of housing choices, that invite walking to gathering places, services and conveniences, and that are fully integrated into the larger community by the pattern of streets, blocks, and other linkages. A neighborhood center provides a focal point, and attractive walking and biking paths invite residents to enjoy the center as well as the small neighborhood parks. Any new development in this District shall be arranged to form part of an individual neighborhood.

For the purposes of this Division, a neighborhood shall be considered to consist of approximately eighty (80) to one hundred sixty (160) acres, with its edges typically consisting of major streets, drainageways, irrigation ditches, railroad tracks and other major physical features.

VI. REZONING EVALUATION

As stated, rezoning requests are principally evaluated based on compliance with City Plan and/or changed conditions within the neighborhood surrounding and including the subject property, although other factors may be considered.

A. Mandatory Requirements

1. Consistency with City Plan (Zoning Map Amendment Requirement)
   The proposed RF and LMN zoning district boundaries coincide with the Suburban Neighborhood and Mixed Neighborhood ‘place type’ designations found on the City Plan Structure Plan Map and strike an appropriate balance between adopted City Plan Environmental and Livability principles and policies.

2. Warranted by changed conditions within the neighborhood surrounding
   Not applicable.

B. Additional Factors that May Be Considered

1. Compatibility with existing and proposed Uses (Additional Considerations per LUC)
   The proposed zoning district boundary demarking the east/west zoning split aligns with the longitudinal boundary of Residential Foothills (RF) zoning to the north that governs development on The Ponds at Overland and Bella Vira neighborhoods. This zoning configuration, along with the condition that any future development
be a “cluster plan”, provides a clear transition from the City of Fort Collins natural areas along the foothills and higher residential densities permitted along Overland Trail. Abutting neighborhoods to the north and east are of a similar residential density and housing type mix as permitted in the LMN-zoned portion of the site.

2. Adverse Impacts to the Natural Environment (Additional Considerations per LUC)

The property has been substantially altered from its natural condition; therefore, the rezoning will not result in negative impacts to natural vegetation or surface water patterns. Site modifications began in the 1940’s when a portion of the property fronting Overland Trail was mined for gravel used in the Horsetooth Reservoir construction. The site was later cleared of natural vegetation, stream channels were removed, and the site regraded to accommodate construction of Hughes Stadium and a heavily compacted parking area covering more than 100 acres. Except for trees and shrubs planted approximately 10 years ago by CSU to enhance property aesthetics, vegetation consists largely of invasive weedy species like cheatgrass, Canada thistle, mullein, kochia, bindweed, and puncture vine. No cost analysis has been conducted with respect to restoring the site to its original, natural condition, although, anecdotally, the costs appear to be significant.

The Natural Areas Department (Department) considers numerous criteria when prioritizing a site for acquisition as a natural area. The Department may only acquire land from a willing seller if using dedicated program funds. The following criteria are considered: current and potential wildlife habitat values; access to nature for the community; value as buffer or addition to an existing natural area; existing condition of property and the cost to restore; other conservation values such as scenic, community separator, agriculture, cultural resources; alignment with City Plan goals and the Natural Areas Master Plan; and, education opportunities.

The City did not attempt to purchase the site as there is not a willing seller and the criteria for acquisition have not been met. From the perspective of Natural Areas staff, there would be significant opportunity costs associated with a purchase. For example, funds directed to the Hughes site would not be available for conservation in northeast Fort Collins which has no natural area sites. The Hughes site, on the other hand, has nearby natural areas of over 1,000 acres with nearly 10 miles of trail as well as a large community park.

There will be little to no impacts to wildlife as no wetlands exist on the site and it provides limited resident wildlife habitat. Clustering of development within RF-zoned areas provide an opportunity to connect with wildlife movement corridors.

Prior to any future development on the site, an Ecological Characterization Study must be prepared by a professional qualified in the areas of ecology, wildlife biology or other related discipline. The study must identify areas with wildlife, plant life and/or natural characteristics in need of protection.

The existing stormwater detention area known as the “rodeo pond” fronting Overland Trail has been sized to accommodate local and regional stormwater runoff regardless of the zoning districts designated on the property.

No evidence suggests that permitted density/activity under the proposed zoning will result in adverse impacts to air quality when considering the regional impacts on Fort Collins’ air quality. The biggest air quality problem near the Front Range foothills is ozone during the warmer months. Ozone patterns are the result of urban emissions (vehicles, industry and oil & gas operations being the largest contributors) photochemically aging as they travel west during the daytime upslope winds. This ozone impact would not be the result of new construction on the Hughes site, just of transport of emissions from the Front Range urban corridor. Particulate matter (PM2.5/PM10) levels along the Foothills are some of the lowest in the community and generally lessen further from the I-25 corridor.

3. Logical and Orderly Development Pattern

The proposed amendment would result in a logical and orderly development pattern by:

- Providing a density and intensity gradient and land use transition between the developed character along Overland Trail to the natural character of the Maxwell Natural Area abutting to the west.
Agenda Item 12

- Placing the lowest housing density and opportunities to retain more land in an open state on the west portion of the site.
- Placing comparable residential density along the east and northeast portions of the site towards existing residential neighborhoods of similar density and housing mix.
- Orienting the LMN zone district toward Overland Trail which will provide a “neighborhood center” serving the site and nearby residences.
- Allowing housing opportunities on the site where a full range of urban services - arterial streets, water, sanitary sewer, storm drainage, electric power, schools and trails - are either presently available or can be provided.

Specifically, to transportation, the City’s Master Street Plan will serve as a guide as it anticipated adequate arterial capacity for growth in the area. If and when a development plan is submitted, a detailed traffic review will be required and all Transportation Level of Service (LOS) standards must be met. Transportation-related impacts may require improvements to the transportation system both adjacent and off-site for vehicular, bicycle, pedestrian and transit modes.

VII. Condition of Approval

Land Use Code Section 2.9.4(I) allows conditions of approval to be imposed upon a rezoning. Staff recommends that Council impose the condition of approval that any development within the portion of the property zoned as Residential Foothills (R-F) be developed in clusters pursuant to Land Use Code Section 4.3(E)(2). Staff is recommending this condition of approval to provide a clear transition from the City of Fort Collins natural areas along the foothills and place higher residential densities permitted along Overland Trail. Clustering on the RF portion of the site will provide more habitat for wildlife corridors along the foothills, require less new utility and street infrastructure, and better maintain a more ‘open’ character.

CITY FINANCIAL IMPACTS

No significant impacts as the request is limited to rezoning.

BOARD / COMMISSION RECOMMENDATION

The Planning and Zoning Board conducted a public hearing of the rezoning request on September 19, 2019, and recommended, on a 4-2 vote, that City Council not adopt the proposed zone districts. Alternatively, the Board recommended that the property be rezoned to Residential Foothills (RF) with the requirement that future development meet the requirements of a Cluster Plan pursuant to Land Use Code Section 4.3 (E)(2).

Planning and Zoning Board Hearing minutes are provided as Attachment 26.

PUBLIC OUTREACH

I. Neighborhood Meeting

Staff convened one neighborhood meeting in accordance with Land Use Code Section 2.9.4(B) on August 8, 2019. A neighborhood meeting to discuss potential redevelopment of the Hughes site was also held on April 4, 2019, and Colorado State University held two Listening Session (September 20, 2017, and October 18, 2017). See Attachments 10-22 for the two neighborhood meeting summaries, individual public comments and the Listening Session Feedback summaries.

II. Public Comments

A consistent theme throughout the public process has been the preference expressed by community members that the site be retained in an undeveloped state and that views to the foothills be protected. Comments range from the acquisition by a public agency as a protected Natural Area or Open Space to expanded use as a recreational site.
During the rezoning neighborhood meeting, attendees expressed an overall preference for as much open space as possible on the site to protect resources within the Maxwell Natural Area to the west, create a buffer for wildlife in the area, protect views of the foothills for surrounding neighborhoods and keep the traffic impact low. A slight preference for “clustering” on the western edge of the site was indicated.

Responses at the Hughes Stadium Open House on the question about which three characteristics are most important for the site:

![Pie chart showing various preferences]

III. Scenarios Feedback

Of the 5 Scenarios presented at the neighborhood meeting (Attachment 7), support for Scenario 1 was most prominent among attendees. Many comments related to Scenario 1 involved a desire for as much open space as possible within the zone district configuration presented in Scenario 1.

Many comments included a desire for a “6th scenario,” zoned as “Public Open Lands” or “POL” only. Several comments requested that at least half of the site be designated as Public Open Lands. Comments also included a desire for even lower development density than Scenario 1 allows. Some of these concerns were expressed in conjunction with a concern regarding traffic congestion and stress on existing road infrastructure in the area, including pedestrian and bicycle infrastructure. Several comments expressed a desire for affordable housing on the site.

Some benefits mentioned regarding Scenario 1 were made in contrast to the other Scenarios; across several Scenarios, comments regarding a desire for the lower-density option (Scenario 1) were expressed. These comments were made in conjunction with a desire to preserve views of the foothills with lower density housing, a desire to keep development at 2 stories and a desire for low impact on existing wildlife in the area.

A small number of comments expressed interest in high-density housing options, citing the need for different housing types and sizes correlated to affordability.

In order to understand the preferred site zoning after presenting the scenarios, staff presented a half sheet empty site outline to allow attendees to draw in their preferred site zoning.

- Many drawings indicated a desire for “Public Open Lands” or POL across the entire site.
- Several other drawings indicated a preference for some development on the site with a protective naturalistic or open space buffer along the western edge of the site.
ATTACHMENTS

1. 1974 Open Space Plan Map and Recommendations (PDF)
2. Foothills Issues Report (PDF)
3. Hughes Proposed Zone Districts (PDF)
4. Structure Plan Map (PDF)
5. City Plan Place Type Summaries-Suburban and Mixed Neighborhoods (PDF)
6. Article 4 Use and Development Standards for RF and LMN zone districts (PDF)
7. Maps of 5 Zoning Districts Scenarios Considered (PDF)
8. Memo-Air Quality Impacts of Foothills Development (PDF)
9. Rezoning Neighborhood Meeting Presentation (PDF)
10. Public Comments Summary, September 3, 2019 (PDF)
11. Staff presentation to Boards and Commissions (PDF)
12. Hughes Scenarios Sticky Note Feedback (PDF)
13. Scenario 1-5 Sticky Note Feedback (PDF)
14. Hughes Zoning Drawings from Neighborhood Meeting (PDF)
15. Site Characteristics Most Important to Participants at Neighborhood Meeting (PDF)
16. Summary of Scenario Comments (PDF)
17. Other Comments from Neighborhood Meeting (PDF)
18. Citizen Comments Received (PDF)
19. Planning Action to Transform Hughes Sustainably (PATHS) comments (PDF)
20. OurCity Webpage comments (PDF)
21. First Neighborhood Meeting Comments (PDF)
22. Neighborhood Listening Session Attendee Feedback, September 20, 2017 (PDF)
23. Planning and Zoning Board Minutes, September 19, 2019 (PDF)
25. Powerpoint presentation (PDF)
PUBLIC COMMENTS RECEIVED FROM NOVEMBER 6, 2019 THROUGH MARCH 10, 2020.

Council received these comments as part of its March 17 agenda. Comments received from March 10 through March 25 are provided as Attachment 3.

Any comments received between March 25 until 4 pm, March 31 will be provided in the read-before packet given to Council on March 31.
From: Joyce DeVaney <JDeVaney6@Comcast.net>
Sent: Tuesday, November 05, 2019 4:37 PM
To: City Leaders <CityLeaders@fcgov.com>
Cc: Cameron Gloss <cgloss@fcgov.com>; Sylvia Tatman-Burruss <statman-burruss@fcgov.com>
Subject: Input on Hughes Stadium Property Rezoning

I live within a few blocks of the proposed development, and I strongly feel that the vote tonight on the Hughes Stadium rezoning should be RF zoning, as the Planning and Zoning Board has recommended. I oppose the LMN zoning on the east half of the property. It is imperative to keep the number of potential residences at a minimum because of our neighborhood concerns regarding traffic, dust, wildlife barriers, adequate access to trails/foothills, and ultimate congestion. There has not been adequate study of the potential for traffic problems, school resources for the kids, and how this neighborhood could absorb even the number of families proposed with both LMN and RF zoning.

The 600-700 homes proposed by Lennar was totally unacceptable, and I very much appreciate the time and attention that City staff have devoted to public hearings and neighborhood input. We love our "crown jewel" on the west side of Fort Collins, and we insist on keeping it family-friendly and safe from traffic congestion.

Thank you for your consideration of these comments.

Joyce DeVaney
2842 McKeag Drive
For Hughes

Sent from my iPhone

Begin forwarded message:

From: Aaron Monier <aaronmonier@live.com>
Date: November 5, 2019 at 6:55:02 PM MST
To: "statman-burruss@fcgov.com" <statman-burruss@fcgov.com>
Subject: Hughes Stadium

Dear Sylvia,
Unfortunately my wife and I are unable to attend the meeting tonight. We still would like to express our opinion on the housing matter.

We are home owners in the Browns farm neighborhood and have lived in Ft. Collins for over 15 years. We very much support leaving as much open space as possible in the Hughes stadium area. Beautiful Public open spaces are one the unique features that bring residents and tourists alike to Fort Collins, and this area has been enjoyed by residents for years. As a town we’ve already made a commitment to environmentally sustainable practices and in our consideration of this property we have an opportunity to practice what we preach.
Thank you for considering our thoughts on this matter,
Aaron Monier And Kelly Keeler
Good Afternoon City Council Members, Mayor Troxell, and City Staff,

This is Adam Eggleston and I always try to be positive in my emails and communication, and never too harshly criticized, but the discussion and decisions made last night gave me a real sense of concern.

I am very concerned about the decision to circumvent the normal process of Land Development and the overstepping of the city council. It is clear that the current makeup of this council believes they know more than educated and professional staff that has been helping the city for years, what was most apparent is absolute lack of institutional knowledge of Fort Collins land-use code and nearly no working knowledge of anything to do with real estate transactions, ownership, and use. The council should at a minimum had been knowledgeable about the differences between RF/LMN/MMN zoning and what is allowable types of structures and densities associated with each zoning. If the council would allow the staff to work through the normal process then the answers to your questions would have been more accurately answered and we could have had a better or educated discussion.

I never purposely want to call out any particular council members, but in this case councilmember Caniff, that his anecdote examples are strictly based and blatantly predetermined biases. I would like to see council member Caniff use more intelligent and citable data to help make decisions that will impact the city for decades to come and not anecdotal feelings.

This Council it's facing many long-term projects that would determine the growth of Fort Collins over the next three decades. It is imperative that everyone become more knowledgeable on land use code or be willing to utilize the educated and expert staff to suggest the best strategy recommendations for use for the land and which available to develop.

This Council will also have to make a decision, to allow expanding growth to match the needs of our community both now and into the future, in one of two ways allow for horizontal growth like this proposed project or be willing to make the necessary changes to allow for vertical growth. Either way, neither this council or future councils will be able to stop the growth that Fort Collins.

I apologize to be so critical, as I always tried to be positive and informative in my emails and correspondence. But in situations like these, I feel I have to be a little bit more direct. Next week I will continue to be the friendly neighborhood City advocate.

I look forward to continuing to work with you all to help our city grow into the future.
Thanks,
Adam Eggleston

2017/2018 Fort Collins Board of REALTORS Board of Directors
2016/2017 Northern Colorado Young Professional Co-Chair
2017 Volunteer of the Year
2017 Young Professional of the Year
2019 Chair Government Affairs Committee
Ex-Officio Member Chamber of Commerce LLAC
Vice Chair-Fort Collins Parking Advisory Board
Thank you for taking the time to drive out to the Hughes site and take in the splendor of this beautiful piece of land. I appreciate you doing so. It made me wonder if any of the other council members took the time to do this.

I live off of Drake road and in the past I have ridden my horse from my house to Pineridge natural area. I can not even imagine 600 plus homes on that property. I will be affected by the increased traffic those homes will bring.

It would be a miracle if CSU gave the land to the city to make a beautiful park or maybe a music venue. I will keep dreaming. The site really is a Crown Jewel of Fort Collins!!! I am so sad.

Thank you again for listening to our Fort Collins community. I have been a resident here since 1972.

Barbara Heffington

Sent from my iPad
Barb Clem
Executive Assistant to the City Manager
Fort Collins, CO
970-221-6509

Darrin Atteberry – This petition addressed to you on Change.org has new activity. See progress and respond to the campaign’s supporters.

Fort Collins City Council: Find a more sustainable alternative to the Hughes Redevelopment Plan
Petition by P.A.T.H.S. FoCo · 500 supporters

500 more people signed

View petition activity

Recent Supporters

Kirsten Carlson
Denver, CO · Aug 06, 2019
No more apartments or housing! We want more natural open areas!

Rebecca Cohencious
Ashburn, VA · Aug 06, 2019
My experience as a Lennar homeowner is that they are a haphazard builder with little regard for the quality of the end product.

nathan fritzen
Fort Collins, CO · Aug 05, 2019
When people think of Colorado, they picture forests, mountains, deer, and prairie dogs. No one thinks of suburban sprawl, apartments, and WalMart (unless they live here, in which case it’s impossible to miss). Boulder has managed to increase its financial worth by wrapping the city with natural areas. This artificially raised property values by placing a limit on how much land is available for development, decreasing supply. At the same time, by keeping the “natural” Colorado habitat, Boulder remains one of the few “destination” cities in the Midwest, desirable for businesses, tourists, and families. I think Colorado needs to dedicate as much land as possible to natural areas. Eco-tourism is a viable form of income. Rocky Mountain National Park saw over 4.5 million visitors in 2018, and Estes Park remains Colorado’s sweetheart tourist town, offering little actual industry. That's equivalent to 80% of Colorado’s population visiting RMNP annually, bringing out of state money to Estes Park. The money will be there, and the value will only increase as the supply of wildlife and land becomes even more novel than it already is. Costa Rica recognized this potential, marketed itself as a tourist destination, and is now ranked 12th (of 32 Latin American and Caribbean countries) in per capita GDP. Tourism earns more money for the country than the combined total exporting of coffee, bananas, and pineapples, their top cash crop. My recommendation is to turn the stadium land into a wilderness area. Plant some trees, natural grasses; and wildflowers. And then enjoy it. Fort Collins used to have a unique, “Colorado” feel to it, but it runs the risk of turning into just another suburb now.

Katherine Abbott
Rye, NH · Jul 30, 2019
As a frequent visitor to Fort Collins, I am concerned with the overpopulation of the city and the negative consequences.

Kris Aliabadi
· Jul 30, 2019
There is a better use for this space than 600 addition housing units. It is going to flood the west side of town with traffic and take away from our
natural spaces.

View all 500 supporters

CHANGE.ORG FOR DECISION MAKERS

On Change.org, decision makers like you connect directly with people around the world to resolve issues. Respond to let the people petitioning you know you're listening, say whether you agree with their call to action, or ask them for more information. Learn more.

This notification was sent to datteberry@fcgov.com, the address listed as the decision maker contact by the petition starter. If this is incorrect, please post a response to let the petition starter know.

Change.org · 548 Market St #29993, San Francisco, CA 94104-5401, USA
Hello, Emily.
When we spoke at the City’s Board Recognition dinner a few weeks ago, you mentioned that the work on City Council has been challenging. That’s certainly understandable, since being on City Council requires a great deal of time and is a huge commitment to our community.

At a recent City Council meeting, you publicly stated that your constituents are seeking affordable and attainable housing options. Their desire for better equality and inclusion prompted your vote for the City’s recommendation for RF and LMH housing at the old Hughes site.

I’d like to share some FACTS with you regarding the ramifications of your vote, if this development is built. I ask that you read the FACTS below and consider them before the next City Council meeting and 2nd reading of the Hughes Site.

1. The LMH and RF recommendation will mean that Lennar can build UP to 996 houses in that space. (The City’s estimate was the minimum number.)

2. Lennar is anything BUT an attainable housing builder. In researching 18 of their recent housing developments in Colorado, prices range from a low of 406k to a high of 758k. I question how these prices, in today’s dollars, are attainable to those you feel are most in need of housing.

3. Our air quality on the west side of town is the worst in the state of Colorado. Recent research conducted at CSU has linked poor air quality to aggressive behavior and increased crime (Oct. 2019).

4. The number of houses going into the space will require elementary school overcrowding. In speaking with those on the board and with local teachers, adding to class sizes hurt students in second language households the most. They get less attention and because teachers have to move more rapidly during their instruction; oftentimes, students who need more deliberately-paced instruction and left behind. According to PSD, there will be an estimated 400 ELEMENTARY school students coming into the school district. The City said that there is plenty of space in the schools but that ONLY pertains to the Middle and High Schools in the area. Although this isn’t your district, the reality is, many students will have to change schools due to redistricting. Therefore, your students, whether in your district or near La Familia, will be affected. Consider the fact that you have second language students who are already stressed to get their work done at home, who will have to change schools. Consider that they’ll have to take different buses, may be separated from their friends, will have to adjust to new school environments, routines will be disrupted, etc. These are facts of overcrowded schools and it’s the children will suffer the consequences. Many of them those you care most
deeply about helping.

And as a Public Health expert, you know the consequences and costs, social and economic, of students who do not finish high school. Most of whom were lost somewhere along the way at school. Is that the Fort Collins you want in the future?

Emily, it’s not too late to change your vote. You have the opportunity to make the right decision by standing up for what you believe and adhering to the values and principles on which you ran.

Our community, and most importantly, those whom you serve in your community, who are entrusting you, are looking for you to take the high road and vote on their behalf. Ask yourself if you are representing them or if you are voting out of other pressures. Because at the end of the day, you’ll have to look yourself in the mirror.

Sincerely,
Renee P. Walkup
3514 Pratolina Ct.
Fort Collins, CO 80521
September 19, 2019

City of Fort Collins
Planning & Zoning Board
300 Laporte Ave.
Fort Collins, CO 80521

RE: Hughes Stadium Annexation Property Rezoning, REZ 190001

Dear Chair Hansen and Fellow Planning & Zoning Board Members,

I wanted to call to your attention three key points:

1. **City Staff has done a great job attempting to balance multiple community goals**, and often competing opinions voiced by citizens and commenters from outside our community. Cameron Gloss in particular has taken great effort to ensure that any development on this property is held to a high standard and creates a legacy neighborhood.

2. **The Structure Plan, and many of the Zoning Scenarios evaluated do not seem to recognize the existing physical condition of the site**. There is a large, regional detention pond that needs to remain in some manner. The footprint of the former stadium is unsuited for development, and there is an agreement to continue a disc golf course. As such, there is likely ±50 acres of de facto open space when considering stormwater detention, the stadium footprint, and disc golf course.

3. **Key City Goals could better be achieved with more flexibility in zoning**. Among such goals and initiatives are Nature in the City, Climate Action Plan, City Plan, and the #1 concern from Fort Collins’ Community Survey: **affordable quality housing**.

The existing site conditions creating roughly 50 acres of open space do not follow the zoning line currently presented. Bisecting the site in such a manner imposes an artificial barrier to creative land planning that could best achieve the goals mentioned in Item 3. Diversity of housing options, price points, place types, etc. would be better served by placing **LMN zoning across the entire property**.

As mentioned above, City Planning Staff will undoubtedly ensure development is done correctly. 50 acres of open space is already a given. A single zoning type of LMN will best serve the current and future needs of Fort Collins residents.

Sincerely,

Nick Haws
2721 Walkaloosa Way
Fort Collins, CO 80525
I have lived in the Lexington Green Neighborhood for about 20 years and would like to stay in Fort Collins. I have been pleased and trusting about the leadership in our city that has created such a pleasant place to live. I quite often hike in the foothills and ride my bicycle along Overland Trail enjoying nature and the rural sites. I have always expected our leaders to continue serving in the way that reflects my values. I realize that the Hughes Stadium redevelopment is a private transaction, however, this is a property that has always felt like it belonged to the residents of our city. It has been used by thousands on a regular basis, but more importantly has been a landmark and treasured open space that serves as a gateway to our magnificent foothills. I believe that many are not aware of the plan to put homes on this well loved land. Many who are aware are heartbroken thinking about the loss, but also what it will mean to our way of life. The west side has been a sanctuary away from traffic, noise, and chaos. If this development moves ahead, the quality of our life here will be transformed in a way that can never be reversed. The place we go to rejuvenate and celebrate our freedoms will be changed forever. With the homes will come more cars running down Overland Trail and Drake Rd and Prospect Rd every day. We already have so much more noise from traffic that it is distressing. West Fort Collins does not need to irreversibly change in a way that destroys it’s appeal. Colorado State University has broken our trust. The people who act out of greed instead of valuing community should not be deciding the future of Fort Collins. I am very disappointed that you do not value the open space at Hughes Stadium site enough to do all that is in your power to preserve it for the citizens. Especially Ms Stephens and Ms Gorgol, representing districts that are directly impacted. Shame on CSU and shame on you all for not recognizing an opportunity to be heroic in your actions. This is a special parcel that should be preserved as open space.

Jan Vail
From: Delynn Coldiron
To: Delynn Coldiron
Subject: RE: A community, and planet, with boundaries
Date: Thursday, November 14, 2019 3:19:24 PM

From: DAVID ROY <david.roy@comcast.net>
Sent: Friday, November 8, 2019 7:30 AM
To: Emily Gorgol <egorgol@fcgov.com>
Subject: A community, and planet, with boundaries

Good morning, Council Member Gorgol;

I am profoundly disappointed in your vote to support Lennar, a company worth nearly $20 billion dollars, and from out of state, over the voices and concerns of your neighbors and fellow citizens. (Interactive chart of historical net worth (market cap) for Lennar (LEN) over the last 10 years. How much a company is worth is typically represented by its market capitalization, or the current stock price multiplied by the number of shares outstanding. Lennar net worth as of November 06, 2019 is $18.54B.)

Your vote looks like you are choosing to march with the Fort Collins Board of Realtors and the Fort Collins Chamber of Commerce, instead of examining the facts, and understanding the environmental value of the old Hughes Stadium footprint. (The Fort Collins Area Chamber of Commerce and Realtors backed zoning that allowed increased density and the opportunity for more affordable and attainable housing in the city.)

This vote puts you on the side of Tony Frank, a man who disregarded nearly the entire Fort Collins community so that Colorado State University could field a football team on campus, and who, despite having been the leader of Colorado State University, had the temerity to allow CSU to put out this weasley comment; ("We remain committed to evaluating reinvestment of a portion of the proceeds into attainable and potentially affordable housing for CSU employees, although such decisions obviously cannot be made until the zoning process is complete and the finances available to the CSU System from this project are then known."

The track record of Lennar includes this gem of how they built community, by demolishing affordable housing units, in San Diego: Developer Lennar Homes of California will move forward with the plan to demolish the 332-unit Penasquitos Village development to construct Pacific Village, which will consist of 99 single-family homes, 105 triplex units, 120 condominiums and 276 apartments.

Lennar, a company that built more than 26,500 homes and had revenue of $10.9 billion in 2016, has this vision: We build homes in some of the most desirable cities in the nation and for all stages of your life: first home, move-up home, or a multigenerational home to accommodate your changing family needs. Our communities cater to all lifestyles and include urban, suburban, active adult and golf course living.

Emily; your vote defines a classic, co-opted, liberal world view. I'm sure that you believe that the least fortunate in Fort Collins deserve the dignity of housing, and that those who work in Fort Collins have every right to try and find housing in Fort Collins. As do I. Working with the Realtors and the Chamber because you want to reduce poverty in Fort Collins strengthens their Trumpian talking points, puts a good voice (yours) in their back-pockets, and does less than 0% to change the dynamics of poverty in Fort Collins. That is not the work of a progressive.
The worst thing to me about your vote is that it continues the trend across all levels in government about policies being created as though this is a planet without boundaries. Emily, we live on one planet, with finite resources, a planet that is fraying at the edges, soon to be consumed by the effects of climate change, and the specter of mass extinctions.

Your neighbors, many of whom believe at least as strongly as you do in equality, in decency, some of whom have worked for decades to make Fort Collins a great place, and who also believe in the ability of government to do good work, know that the breaking point is upon us. Protecting and preserving this land for the 7th generation is the highest and best use for it.

I'm pretty certain that Lennar, through Darin and others, will come wringing together their $20 billion dollar hands, and have the nerve to ask for more from the citizens of Fort Collins (e.g. a Metro District, etc.).

When that time comes, please tell them 'no'.

Thank you, Emily.

Best Regards,

David Roy
2016 Evergreen Court
Fort Collins CO 80521
(970) 493-9201
Hello Emily,

I hope you've had a really great weekend this weekend. My name is Lisa Baughn, I'm an adjunct instructor of Geography, 5-year resident of district 5 and member of PATHS. I was able to meet you at your listening session a couple of weekends ago and hear your thoughts on affordable housing and economic issues here in Ft. Collins. It's great to be in touch with you again.

I really appreciate your interest and attention to the issues of affordability here in Ft. Collins and thank you for the conversation at the session. In the last 4-5 years the market value of my 1br. apartment in district 5 (Heatheridge Lakes) has increased about 29% (possibly more). If I were to try and move in to it today, I could not afford it on the spotty, part-time, low wage work that seems to be available now.

I experienced instability at all 3 of my adjuncting jobs this Fall semester, and just have not been able to break out of such low wage, part time contract work. Lots of folks continue to face
similar insecurities as you know, both related to increases in housing prices and stagnant or falling incomes and the growth of the precarious "gig" economy. I talk to many residents who are really struggling to hang on in Ft. Collins. I know you know their struggles as well.

A fellow member of PATHS and I have been reflecting on and researching the points you made at the listening session and at the City Council hearing during the Hughes zoning process last week, and we were wondering if you'd be available this week to talk about housing issues in more detail, either Tuesday, Thursday or Friday. If so, we would really appreciate it! :)

Specifically, we'd like to share some really interesting and important data with you, and get your thoughts on it:

"Here's What We Actually Know About Market-Rate Housing Development and Displacement"

There are lots of studies linked to in the article, and we'd really like to open some of them up for discussion/exploration with you, if possible.

If so, please let me know of some times that might work for
you on Tuesday, Thursday or Friday. If those days don't work, let us know and we'll try for something else. :)

Thank you so much, Emily. I'm looking forward to talking about these important issues with you again.

Sincerely,
Lisa Baughn
lisa.baughn@gmail.com
From: Chris Warman <actualchrisw@gmail.com>
Sent: Friday, November 8, 2019 12:58 PM
To: Emily Gorgol <egorgol@fcgov.com>
Subject: Hughes

Councilmember Gorgol,

I am beyond disappointed in your vote to approve the Hughes development, and as a constituent of the 6th district in Fort Collins, I believe you acted unfaithfully in casting your vote for the development.

We elect our officials to speak for us, and you ran on a platform of "Thriving Natural Environment" which is the reason I voted for you in the first place. In doing so, and in following suit with the first council vote to reject the initial development, I reasonably believed you would continue to agree with the voices of your constituents and reject the subsequent proposal. Instead, you used the guise of "affordable housing" to vote for the project. Whereas the proposal contains no written promise of affordability, nor does it accurately address the current cost of living in Fort Collins, I believe you acted in bad faith.

Additionally, whereas you are a sitting member of the Affordable Housing Board, you should know that adding these homes will not fix the housing problems. Not only will these homes most likely be priced at or above the current median home cost of $425,000, it will also not account for rising rent costs. Currently, 2 bedroom apartments are commonly priced upwards of $1400 which means someone would spend 85% of their minimum wage job solely on housing. New apartments do not lower the cost of old apartments and new homes do not lower the cost of existing homes.

Another problem is the lack of existing infrastructure to support this new proposed community. Overland Trail is a two-lane road that already does not have enough traffic lights or safe side walks while seeing an incredible increase in traffic each year. Adding these homes will not help, and there is no way any environmental study would suggest anything less than a negative impact. Even more than the traffic issues will be the lack of affordable food within walking distance for this community. Even if people can afford to live there, they will only find themselves in a food desert with limited public transportation options which makes this project not only bad for the environment but also discriminatory.

On top of all this, there is the issue of Lennar entering this market on your watch after you stated in your campaign your desire to build local communities. Now, the money spent on developing the Hughes Stadium area will instantly leave the community. As the saying goes, a good compromise leaves everyone mad. My only hope is that this compromise upsets Lennar enough to decide not to build, and then this valuable natural resource can potentially be preserved as the people who
already live in the area believe it should be.

For these reasons and more, I fully intend to follow up on this issue by pursuing any civil and legal means available to prevent this housing development. I hope that you listen to your constituents and rejoin their efforts to preserve the natural beauty of Fort Collins.

All the best.
- Chris Warman
From: Nick Haws <nick@northernengineering.com>
Sent: Tuesday, November 5, 2019 3:14 PM
To: Emily Gorgol <egorgol@fcgov.com>
Subject: Hughes Stadium Site Rezoning | need more housing options

Emily,

Attached is a letter I provided to the Planning & Zoning Board on September 19th. I don’t think it made it into the full agenda packet tonight, but perhaps I overlooked it in the volume of attachments.

My comments today are much the same. We need thoughtful, well-planned housing on this site. Not a cluster of 80 homes at price tags over $1M. That does not align with City Plan nor does it address the needs of the greater community for attainable housing. Please vote for LMN Zoning, as recommended by Staff.

Thanks,

Nick Haws
2721 Walkaloosa Way
Fort Collins, CO 80525
Ms. Gorgol,

Hi, I'm a member of your district and I understand you recently voted to approved high-density housing at the Hughes Stadium site without any guarantees of affordable housing ensured.

As someone who works in water in this area and has been involved in discussions regarding the nexus of affordable housing and "tap fees" with developers, it's my understanding that affordable housing according to average industry models means units beginning in the low 300,000 thousands. That's low 300,000s even with greatly reduced footprints for single family units relative to suburban lots through the 90s. The Mosaic development off of Timberline is a perfect example of this trend.

Frankly, I'm disappointed that a supposedly progressive representative like yourself is not ensuring affordable housing for people such as our teachers is not baked into any developments that you approve. Either City Council gets serious about baking in affordable units into their development approvals, or this town will continue to punish its working classes and we will become a town only for the wealthy. This may sound a little hyperbolic but if home prices continue to appreciate as they have been it's very much accurate.

I'd be happy to discuss this issue further but my vote will follow genuinely progressive policies and a city council member who takes seriously the role of government in constraining capitalism.

All best,

James Bishop
Dear Council Members,

May I first say I would like to extend my appreciation to those members: Ross, Susan and Julie who voted in favour of what the community wants and for the betterment of our quality of life by voting against Hughes development. I believe this shows sensitivity to constituents for whom these members have been elected and awareness of the implications of placing this development on the west side in an already crowded and lacking in transportation routes. This area is the access to horsetooth reservoir and provides a buffer for animal populations. The lesson Boulder discovered by developing their west end is more animal intrusions and fires and they found a downtown stadium to be a nuisance.

Fort Collins is touted as a wonderful place to live and since I have moved here in 1990 I have seen this wonderful town deteriorate due to over development and lack of placing limitations on growth. This has created a situation where the air quality contrary to csu representative is not a “regional problem” it is one we all have part in and like Boulder the more air pollution on the west side the more it sinks into town. I remember when we did not have brown clouds that were visible from arthurs rock. All other considerations have also deteriorated with the crowding.

I could barely speak my whole two minutes at the podium as I surveyed the council and could see where some members were headed, this was conveyed in their body language and I must say it seemed dismissive of those who got up to speak. This development has been opposed by I would say the majority of the community for a number of reasons and would ask that the remaining members regain reason and vote this development down. The poorly planned stadium and overruns should not be a suitable reason to continue this project, which is not addressing the lack of affordable housing in this community. This project is certainly not in character with our town and how we would like to be viewed as a healthy and attractive town. We need more open space.

Thanks
George Bishop
PURCHASE AND SALE AGREEMENT
[Hughes Stadium Redevelopment]

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), the Effective Date of which is January 31, 2019, is entered into by the STATE BOARD OF AGRICULTURE OF COLORADO, now known as the BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY ("Seller") and LENNAR COLORADO, LLC, a Colorado limited liability company ("Buyer"). Buyer and Seller will sometimes be referred to herein individually as a "Party" or together as "Parties").

RECITALS

A. Seller is the owner of that certain real property located at 201 1 South Overland Trail, Fort Collins, Colorado, which was formerly the location of Hughes Stadium (the "Property").

B. Seller wishes to sell to Buyer the Property and Buyer wishes to purchase from Seller the Property, upon the terms and conditions hereinafter set forth,

NOW THEREFORE, in consideration of the foregoing recitals, which form a substantive part of this Agreement, and Of the premises and the mutual covenants and agreement of the Parties set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged. Buyer and Seller do hereby agree as follows:

1. Definitions. Capitalized terms that are not defined when first used in this Agreement have the meanings set forth below.

   (a) **Additional Purchase Price:** As defined in Section 15(a).

   (b) **Additional Title Matter:** As defined in Section 6(g).

   (c) **Affiliate:** As defined in Section 18(d).

   (d) **Authorities:** All federal, state and local governmental and quasigovernmental agencies, bodies, entities, boards and authorities that have jurisdiction over the Property, the furnishing of utilities or other services to the Property, or the subdivision, improvement, development, occupancy, sale or use of the Property.

   (e) None.

   (D) **Buyer's Entitlement Costs:** As defined in Section 3(d).

   (g) **Buyer's Entitlement Work Product:** As defined in Section 4(d).

   **City:** City of Fort Collins.
(i) **Closing**: The act of settlement of the purchase and sale of the Lots at which Seller conveys title to Buyer by delivery of a deed and Buyer delivers the Purchase Price to Seller. The Parties contemplate that there will be one Closing.

  O) **Closing Date**: As defined in Section 5(a).

  (k) **Commitment**: As defined in Section 6(a).

(l) **Confidential Information**: As defined in Section 17(a).

(m) **CORA**: As defined in Section 17(c).

(n) **Deposit**: Two Hundred and Fifty Thousand Dollars ($250,000.00), as more particularly specified in Section 3(a).

(o) **Disclosing Party**: As defined in Section 7(a).

(p) **District**: As defined in Section 4(g).

(q) **Documents**: As defined in Section 4(c).

(r) **Effective Date**: The date on which both Parties have delivered to the other a fully executed original of this Agreement. The Effective Date shall be filled in above upon establishment of the Effective Date.

(s) **Escrow Agent or Title Company**: Fidelity National Title Company, 3500 John F. Kennedy Pkwy., Ste. 100, Fort Collins, co 80525.

(t) **Existing Survey**: As defined in Section 6(e).

(u) **Period**: The period beginning on the Effective Date and expiring on 5:00 p.m. MDT, on the ninetieth (90th) day after the Effective Date.

(v) **Financial Records**: As defined in Section 15(d).

(w) **Final Plat**: As defined in Section 4(e).

(x) **Home**: The home types that Buyer intends to build on the Lots.

(y) **Indemnified Party**: As defined in Section 4(c).

(z) **Initial Concept Plan**: Buyer’s initial concept plan for development of the Hughes Subdivision as set forth in the Response to Hughes Stadium Master Developer RFP dated June 8, 2018.

(aa) **Initial Title Materials**: As defined in Section 6(a).

(bb) **Legal Requirements**: The rules, regulations, laws, ordinances, standards, approved plans and other requirements of the Authorities.

(cc) **Letter or Credit**: As defined in Section 3(a).
A proposed number of six hundred twenty-five (625) lots, which may be increased or decreased pursuant to the Final Plat as described herein, to be developed as townhomes, paired homes and detached single family residences.

Material Event Termination Notice: As defined in Section 7.

Maximqmm Seller Liability: As defined in Section 14(b)

Net Profits: As defined in Section 15(b).

Outside Closing Date: 5:00 p.m. MDT, October 30, 2020, at which time this Agreement shall automatically terminate if Closing has not been consummated before such time. Upon such termination, the Parties shall have such rights and responsibilities as are otherwise set forth in this Agreement.

Permitted Exceptions: As defined in Section 6(h).

Preliminary Entitlement Confirmation: As defined in Section 4(d).

Preliminary Entitlement Confirmation Deadline: As defined in Section 4(d).

Preliminary Entitlement Reimbursement: As defined in Section 4(d).

Project Approvals: As defined in Section 4(e).

Project Documents: As defined in Section 4(e).

Property: The parcel of real property currently containing approximately one hundred sixty-one (161) acres located at 201 South Overland Trail, City of Fort Collins, Larimer County, Colorado, as more particularly described and depicted on Exhibit A attached hereto, including Seller's interest, if any, in all mineral, oil, gas, gravel, geothermal, and ground water rights appurtenant thereto; together with all contracts and contract rights, studies, materials and plans, including architectural, landscaping, grading, and other plans, specifications and reports applicable to the Lots; all easements, rights of way, permits, approvals, privileges and entitlements appurtenant thereto and all right, title and interest in and to all streets and water courses adjacent to, abutting or serving the real property.

The proposed development of the Property into a desired number of six hundred twenty-five (625) Lots, to be developed into single family detached, paired, and townhome Homes, with plans for low...
maintenance Homes and "Next Gen" Homes, together with planned significant trail systems, parks and open space tracts, with a central civic park to memorialize the former Hughes Stadium, and associated retail uses, to be known as the "Hughes Subdivision".

(rr) Purchase Price. The amount to be paid to Seller as provided in Section 3(b).

(SS) Representative. As defined in Section 17(a).

(tt) Retail Closing. The closing between Buyer or its successor and a third-party homebuyer of a Lot with a completed Home thereon.

(vv) Sales Price(s). The purchase price for a Home(s) paid by a third party homebuyer at a Retail Closing, based upon the closing settlement statement (formerly known as a "HUD-I")

(ww) Suitability Notice. As defined in Section 4(b).

(xx) Title Review Period. As defined in Section 6(c).

(yy) Updated Survey. As defined in Section 6(e).

(zz) Warrant! Expiration Date. As defined in Section 14(b).

2. Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Property in fee simple.


(a) Delivery of Deposit. Within five (5) business days after the Effective Date, Buyer shall deliver to Escrow Agent the Deposit by wire transfer, or at Buyer's election, shall deliver to Escrow Agent the Deposit in the form of a letter of credit issued by

or the benefit of Seller in the form attached hereto as X It (t e tte re It t uyer fails to deliver the Suitability Notice as provided in Section 4(b), prior to the end of the Feasibility Period, then this Agreement shall automatically terminate as of the end of the Feasibility Period and Escrow Agent shall immediately return the Deposit to Buyer at such time. After delivery of the Suitability Notice, the Deposit shall be nonrefundable to Buyer except as expressly provided in Sections 6(g)(ii), 7, 8, 9, 11(b) and 11(d) of this Agreement. The Deposit shall be held by Escrow Agent in escrow, with any cash portion held in a separate, federally-insured interest bearing account(s), and the interest shall be considered pan of the Deposit. The Deposit shall not be credited against the Purchase Price, unless during the term Of this Agreement the Letter Of Credit is substituted or replaced with a cash deposit, and then only in the amount held by the Escrow Agent and applied at Closing. If this Agreement is terminated by Buyer pursuant to Sections 4(b), 4(d), 4(e), 6(g)(ii), 7, 8, 9, 11(b) and 11(d), the Deposit then held by Escrow Agent shall be returned to Buyer by Escrow Agent, and, except as otherwise provided herein, thereafter, all further rights and obligations of the Parties under this Agreement shall terminate.
(b) **Purchase Price.** The Purchase Price for the Property payable at Closing shall be Ten Million Dollars ($10,000,000.00) ("Purchase Price"), and shall be adjusted prior to Closing as follows:

(i) based upon the number of Lots contained in the Final Plat, if fewer than sixty hundred twenty-five (625) Lots are approved in the Final Plat, then the Purchase Price would be reduced on a pro rata basis in the amount of Sixteen Thousand Dollars ($16,000.00) per Lot less than sixty hundred twenty-five (625) Lots, up to a maximum reduction equivalent to Four Hundred Thousand Dollars ($400,000.00); (ii) if more than sixty hundred twenty-five (625) Lots are approved in the Final Plat then the Purchase Price would be increased by the amount of Sixteen Thousand Dollars ($16,000.00) per Lot more than sixty hundred twenty-five (625) Lots; and (iii) if the City allows a reduction of the amount of drainage areas in the Project from those currently shown on Buyer's Initial Concept Plan, then the Purchase Price would be increased by Eight Thousand Dollars ($8,000.00) for each such additional Lot more than sixty hundred twenty-five (625) Lots caused as a result of the reduction of the drainage areas in the Project; and

(ii) **Buyer's Entitlement Costs** up to a maximum of Four Hundred Thousand Dollars ($400,000.00) shall be applied as a credit against the Purchase Price, provided that Buyer shall deliver to Seller paid invoices with reasonable backup documentation.

(c) **Additional Purchase Price.** In addition to the Purchase Price, from and after Closing, Buyer shall pay Seller the Additional Purchase Price specified in Section 15 below.

(d) **Entitlement and mating Costs.** The Parties acknowledge and agree that the Purchase Price is based upon the Final Plat pursuant to the Project Documents receiving final, unappealable approval by the applicable Authorities, together with recordation thereof, on or before Closing for a minimum of six hundred twenty five (625) Lots, subject to adjustment pursuant to Section 3(b) (or if appeal is taken, such appeal has been resolved to the commercially reasonable satisfaction of Buyer). Buyer shall be responsible for all costs of preparation and submittal of the Final Plat and Project Documents, and to pay any fees imposed by the Authorities as a condition to final approval of Final Plat and Project Documents and the costs charged by the County Clerk and Recorder for recordation of the Final Plat, and any park and school dedication fees imposed by the Authorities at or before recordation Of the Final Plat to the extent not satisfied by open space and school dedications in the Final Plat, and any traffic impact fees or other fees or charges imposed by the Authorities at recordation of the Final Plat, expressly including any raw water requirements and City-required water resource or water capital fees. Buyer agrees to be solely responsible for such costs of rezoning, platting and engineering costs Of preparation and submittal Of the Final Plat and Project Documents incurred by Buyer (collectively, "Buyer's Entitlement Costs"). During the Feasibility Period, Buyer will present Buyer's Initial Concept Plan to the City for preliminary review and feedback.

4. **Preliminary Magers.**

(a) **Feasibility Study.** Buyer shall have the right during the Feasibility Period, to investigate title and to make such investigations, studies and tests with respect to the Property as Buyer deems necessary or appropriate to determine the feasibility of purchasing the Property. Buyer acknowledges and Seller hereby agrees that Buyer will, during the Feasibility Period and prior to Closing, have the opportunity to make "Investigations, Tests and Surveys", as hereinafter
defined, on the Property, to satisfy itself that the Property is satisfactory for Buyer's intended use. "Investigations, Tests and Surveys" means, without limitation, the following: (i) inspecting, surveying, making engineering, environmental and architectural studies, testing the soil and otherwise determining the condition of the Property; (ii) reviewing all Documents received from Seller under Section 4(c), all subdivision, zoning, and building code ordinances, rules and regulations of the City and applicable Authorities and the State of Colorado; (iii) determining that utilities, including, but without limitation, water, gas, electricity, telephone and cable television services, can be made available to adequately serve the improvements which are intended to be constructed on the Property; (iv) determining that there is or shall be adequate access to serve the Homes and retail spaces that Buyer intends to construct on the Property; (v) determining the nature, magnitude, and times due of all taxes, fees, charges, system development fees, tap fees, and other costs which are or may be imposed upon the Property or Buyer by any utility company or government or quasi-government agency; (vi) determining the adequacy of water and sewer taps for the Property and service of same; (vii) determining the number, size and location of the Lots and retail spaces by submittal of a land plan to the City; and (viii) determining all other matters regarding the Property and the development thereof which Buyer deems appropriate. However, Buyer shall not engage in any physically invasive testing or inspections without Seller's prior written consent not to be unreasonably withheld or delayed. Seller will permit Buyer's consultants to contact the applicable Authorities in order to investigate the Property. Buyer will be fully responsible for payment of Buyer's consultant fees, costs and charges with respect to any such investigation. Buyer's obligation to purchase the Property is specifically contingent and conditional upon Buyer being satisfied in its sole and subjective discretion that the Property can be developed for the Project and that there are no impediments to the development of the Property for the Project, which would make it unprofitable, impracticable or infeasible to purchase and develop the Property for Buyer's intended use.
(b) **Feasibility Period.** Buyer shall have until expiration of the Feasibility Period to satisfy itself, in its sole and subjective discretion, with respect to the conditions set forth in this Section 4. It shall be conclusively presumed that Buyer is dissatisfied with the conditions set forth in this Section 4, and the Agreement shall automatically terminate and Buyer's Deposit shall be returned by Escrow Agent unless Buyer gives written notice to Seller of its waiver of the conditions set forth in this Section 4 (the 'Suitability Notice") prior to expiration of the Feasibility Period. In addition, at any time prior to expiration of the Feasibility Period, Buyer may, in its sole discretion, for any reason or for no reason, terminate this Agreement by written notice to Seller. Upon any such termination of this Agreement, Buyer's Deposit shall be immediately returned to Buyer, and thereafter no Party hereto shall have any further obligation or liability to the other with respect to the transactions contemplated by this Agreement except for Buyer's obligations pursuant to Sections 4(c) and 12 hereof, which shall survive termination of this Agreement. Except as otherwise provided herein, no examination of the Property will be deemed to constitute a waiver or relinquishment on Buyer's part of its rights to rely on the express covenants, representations, warranties and agreements of Seller in this Agreement.

(c) **Rights of Entry.** During the Feasibility Period and thereafter until this Agreement is terminated, Seller shall permit Buyer, its employees, agents, contractors and subcontractors (after giving Seller reasonable prior notice identifying the purpose of Buyer's entry) to enter upon the Property and while thereon make surveys, take measurements, perform soil test borings or other tests of surface and subsurface conditions, make engineering, environmental and other studies and inspect the Property. However, Buyer shall not engage in any physically invasive testing or inspections without Seller's prior written consent. Seller has made available to Buyer all material reports, surveys, tests, studies, assessments and other information regarding the Property (the "Documents"). Buyer shall (i) keep the Property free of any liens or third party claims resulting therefrom; (ii) defend, indemnify and hold harmless Seller and each of Seller's employees and agents, and Seller's affiliates' employees and agents (each an "Indemnified Party") from and against any and all claims, causes of action, costs (including reasonable attorneys' fees), losses, liability, or awards of any kind or nature incurred by Buyer and/or an Indemnified Party caused by Buyer's entry into the Property, excluding negligent acts of Seller and pre-existing conditions in the Property not otherwise exacerbated by Buyer's entry, (iii) restore as nearly as practicable such portion of the Property damaged by Buyer's entry to substantially its condition immediately before such exercise, and (iv) maintain general liability insurance from the date hereof naming Seller as an additional insured, covering Buyer's activities on the Property in the minimum amount of $2,000,000 combined single limit for death, bodily injury and property damage, with companies and in a form reasonably satisfactory to Seller. The terms of subjections 4(c)(i) to 4(c)(iii) for the benefit of Seller shall survive the Closing or earlier termination of this Agreement.

(d) **Preliminary Entitlement Confirmation.** During the Feasibility Period, Buyer shall use commercially reasonable, diligent and good faith efforts to satisfy itself, in Buyer's reasonable determination, that the City will approve the final Project Approvals (as defined below) for a minimum of six hundred (600) Lots (the "Preliminary Entitlement Confirmation"). Preliminary Entitlement Confirmation shall include preliminary approval at a public hearing, and support by City Council or the Planning and Zoning Board at a preapplication hearing. Buyer shall use commercially reasonable, good faith efforts to notify Seller in advance of any meetings or telephone conferences with City representatives that in any way pertain to its pursuit of the Preliminary Entitlement Confirmation, and shall afford Seller the opportunity to have a representative present. If, despite commercially reasonable, diligent and good faith efforts, Buyer is unable to obtain a Preliminary Entitlement Confirmation or before ninety (90) days after expiration of the Feasibility Period (the "Preliminary Entitlement Confirmation Deadline"), and
elects to terminate this Agreement by written notice to Seller on or before the Preliminary Entitlement Confirmation Deadline, as a result thereof, Buyer's Deposit shall be immediately returned to Buyer and Seller shall reimburse Buyer for Buyer's actual out-of-pocket costs and expenses incurred in connection with its efforts to obtain the Preliminary Entitlement Confirmation (and not for other Feasibility Period matters) in an amount not to exceed Four Hundred Thousand Dollars ($400,000.00), as evidenced by paid invoices with reasonable backup documentation (the "Preliminary Entitlement Reimbursement"). Within ten (10) business days after payment by Seller of the Preliminary Entitlement Reimbursement to Buyer, Buyer shall deliver or cause to be delivered, copies of all of Buyer's Entitlement Work Product (as hereinafter defined). For purposes of this Section 4(d), "Buyer's Entitlement Work Product" means all site planning, development, platting and public improvement plans prepared by Buyer related to the Project, including any application materials related to the Preliminary Entitlement Confirmation or the Project Approvals, but not including Buyer's proprietary, privileged, or confidential information or Home plans. Buyer shall (a) take such actions and pay any legitimate outstanding sums as may be necessary to preclude any claim against Seller or the Property for any sums owing for the preparation of Buyer's Work Product, and (b) use reasonable efforts to obtain within ten (10) business days after Seller gives Buyer its written request, such consents as may be reasonably necessary to enable Seller to utilize Buyer's Work Product; provided, that Buyer shall not be responsible for any party or consultant's refusal to provide any such consent. Buyer's Work Product shall otherwise be assigned "as is," without any representation or warranty by Buyer with respect to the accuracy or completeness of its contents. To the extent Buyer's Work Product can be assigned, Buyer's Work Product shall be deemed assigned to Seller upon the termination of this Agreement without the execution of any additional documents. The foregoing terms for the benefit of Seller shall survive the termination of this Agreement.

(e) Project Approvals. From and after the Effective Date, Buyer, at its sole cost and expense, shall use commercially reasonable, diligent and good faith efforts to obtain all necessary approvals from the City and all other applicable Authorities on or before that date which is twelve (12) months after the Effective Date (the "Project Approval Period") for the following: (i) a PUD, with applicable zoning overlay; (ii) a Subdivision Improvement Agreement for the Project; (iii) a Final Development Plan for the Property; (iv) a final plat or plats for the Property in connection with Buyer's development of the Project to be recorded in the Clerk and Recorder's Office of the County of Larimer; and (v) engineering and construction drawings and plans related thereto (collectively, the "Final Plat") (all of which will be referred to collectively as the "Project Documents"). The approval by applicable Authorities of the Project Documents, shall be referred to herein as the "Project Approvals." If required by the City, the Project Documents will be submitted to the Authorities under Seller's name as owner of the Property. The Parties acknowledge that Ray Baker will represent Seller on behalf of the Project and shall support, cooperate and assist Buyer in obtaining the Project Approvals, at no out-of-pocket cost to Seller; provided, however, that Buyer will be the "front" spokesperson for the Project with the City and will liaison with the City on behalf Of the Project. Buyer agrees to use commercially reasonable efforts to keep Seller reasonably informed of the status of its efforts to obtain the Project Approvals. The Parties acknowledge and agree that the Closing shall be conditioned on Buyer's ability to obtain the Project Approvals on or before the expiration of the Project Approval Period. In the event Buyer is unable to obtain approval of the Project Documents, despite using diligent efforts, prior to the expiration of the Project Approval Period for reasons beyond Buyer's reasonable control, Buyer may elect to either (i) terminate this Agreement upon written notice to Seller prior to the expiration of the Project Approval Period and thereafter the Parties shall have no further rights or obligations hereunder, except for those which expressly survive termination, or (ii) waive its contingency in writing prior to the expiration Of the Project Approval Period to obtain the Project Approvals and proceed to Closing, and this Agreement remains in full force and effect, or (iii) request in writing within twenty (20) days before the expiration of the Project Approval Period a one-time extension of the Project Approval Period and the Closing Date for a period of time not to exceed ninety (90) days. Notwithstanding the foregoing, Buyer will not be obligated to fund or continue with the entitlement and platting process if, in Buyer's sole but reasonable
discretion, Buyer determines during the Project Approvals Period that the City will not approve the Final Plat in conformance with Buyer's Initial Concept Plan.

(f) **Seller Review.** A draft of the Project Documents shall be submitted by Buyer to Ray Baker, at rbaker9217@gmail.com, on behalf of Seller, for Seller's approval, not to be unreasonably withheld before submitting the same to the City. A courtesy copy of the Project Documents shall be sent concurrently to general.counsel@coloradostate.edu. Seller shall have ten (10) business days after each such submittal to provide written notice Of any objections to same, and if Seller does not provide a written objection within such 10 business day period, then it shall be deemed that Seller has approved such submittal. After such approval or deemed approval by Seller, Buyer shall not revise the form of the Project Documents in a material way without obtaining Seller's prior approval not to be unreasonably withheld or delayed. Upon approval by Seller, Buyer shall submit the draft Project Documents to the City. Notwithstanding anything to the contrary contained in this Agreement, Buyer shall be solely responsible for the timely payment of all fees assessed by the City relating to the Project Documents and any other development of the Project as required pursuant to the Project Documents, including, without limitation, all application and permit fees, site planning, engineering costs, and recording costs and any and all school fees assessed at Final Plat, land dedication fees, district fees, cash-in-lieu payments, City financial assurances and any other fee related thereto; it being expressly agreed to by the Parties that Seller shall not be responsible for the payment of any such fees or for any penalties resulting from Buyer's failure to timely pay any such fees.

(g) **District.** Seller hereby acknowledges and agrees that Buyer may elect, and hereby retains the right, at its sole and absolute discretion any time after Buyer has delivered its Suitability Notice to create a new metropolitan district controlled initially by Buyer or its Affiliates, to which the Project will not be subject until after Closing for the purpose of funding public improvements and/or provide covenant enforcement and maintenance services for the Project as approved by the City (the "District"). Upon the inclusion of the Property within the boundaries of such District after Closing, the Project shall be subject to any and all levies and facilities fees assessed against the Project from such District. Any agreements or documents
carrying out the intent of this Section may be recorded against the Project at Closing, but not prior to Closing. Subject to the terms of this Section, Seller will not object or otherwise challenge inclusion of the Property now or in the future into the District. However, Seller will not actively participate in Buyer's efforts to obtain approval of the District by the City. The Parties further acknowledge and agree that the Closing shall not be conditioned on Buyer's ability to obtain approval of the District by the City.

(h) Signs: Sales Trailer; Storage of Equipment. After the end of the Feasibility Period, for so long as Buyer has not terminated this Agreement, Buyer shall have the right to place signs and a sales trailer on the Property and to conduct marketing activities thereon solely in relation to development of the Project, all in accordance with the applicable Legal Requirements, and approved by Seller, such approval not to be unreasonably withheld or delayed. Seller shall also provide, at no cost to Buyer, adequate space on the Property for storage of construction equipment and materials that Buyer and its contractors and their subcontractors may from time to time require solely in relation to development of the Project. Such space shall be located in an area mutually acceptable to Buyer and Seller. In connection with Buyer's exercise of its rights hereunder, Buyer shall comply with all requirements as set forth in Section 4(c)(i) to (iv).

(i) Attainable Housing. During the Feasibility Period, Buyer and Seller shall use commercially reasonable, good faith efforts to reach agreement regarding an allocation of a portion of the Property for the development of attainable housing.

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(a) Closing shall take place within ten (10) business days after the final, unappealable approval by the applicable Authorities of the Project Documents (or if appeal is taken, such appeal has been resolved to the commercially reasonable satisfaction of the Buyer) and recordation of the Final Plat, but in no event later than the Outside Closing Date (the "Closing Date"). Closing shall occur through an escrow with Escrow Agent, whereby Seller, Buyer and their attorneys need not be physically present at the Closing and may deliver documents by overnight air courier or other means. The Parties acknowledge that Buyer requires five (5) business days to wire the Purchase Price after approval of the Closing settlement statement.

(b) Subject to the adjustments provided for herein, any credit of the cash portion of the Deposit at Closing as provided in Section 3(a) and a credit at Closing of Buyer's Entitlement Costs in accordance with Section 3(b)(ii), Buyer shall pay at Closing the Purchase Price by cashier's or title company check or wired funds.

(c) Upon delivery of the Purchase Price, the Parties shall execute, acknowledge, and deliver the Closing documents set forth on Exhibit D.

(d) Each Party shall execute, acknowledge, ensclose and deliver, after the Effective Date, including at or after Closing, such further reasonable and customary assurances, instruments and documents as the Escrow Agent may reasonably request in order to fulfill the intent of this Agreement and the transactions contemplated hereby.

(e) All real estate taxes, and all other public or governmental charges and public or private assessments against the Property which are or may be payable on an annual basis (including metropolitan district, sanitary commission, benefit charges, liens or encumbrances for sewer, water, drainage or other public improvements whether completed or commenced on or prior to the Effective Date or subsequent thereto), shall be adjusted and prorated between the Parties as of the day prior to Closing and paid by Seller at Closing (as a credit to Buyer) and shall from and
after Closing be assumed and paid by Buyer, whether or not assessments have been levied as of the date of Closing. Any tax proration based on an estimate shall be final. The obligation to adjust shall survive Closing.

(f) The cost of documentary stamps, transfer taxes and recording fees shall be paid by Buyer. Notwithstanding the foregoing, Seller shall pay at Closing, without any contribution from Buyer, (i) any agricultural land, recapture, or roll-back tax due in connection with the conveyance or deed under any Authority's law, regulation or ordinance (or any similar tax or assessment), and (ii) the cost of preparing release documents, if any, and the recording thereof for any lien releases required to be obtained by Seller in order to convey title to the Property in accordance with Section 6.

7. Title and Survey.

(a) Commitment. Within ten (10) days following the Effective Date, Escrow Agent shall, at Seller's cost, deliver to Buyer, with a copy to Buyer's counsel, a title insurance commitment, with best available copies of all exceptions evidencing title to the Property (collectively, the "Commitment") by the Title Company. The original Commitment and any Existing Survey (as defined below), are referred to as the "Initial Title Materials". The list of Permitted Exceptions shall be attached hereto as Exhibit E prior to expiration of the Feasibility Period as provided in Section 6(h).

(b) Form of Commitment. The Commitment shall be in the amount of the Purchase Price and shall be updated as provided in Section 6(d), and shall be for an ALTA Form 2006 extended coverage owner's title policy with all standard pre-printed exceptions deleted, provided that Buyer shall be responsible for any updates to the Existing Survey required by the Title Company to delete the so-called "standard title exceptions."

(c) Title Review. Buyer shall have until the date that is thirty (30) days after receipt by Buyer of the Initial Title Materials to review the Commitment and any Survey (the "Title Review Period"). If Buyer determines that there are title exceptions or matters shown on the Survey other than those deemed to be acceptable to Buyer, Buyer shall notify Seller, in writing, of such title defects during the Title Review Period (the "Buyer's Title Objection Notice") and Seller shall have the right, within ten (10) days after receiving such notice, to elect: (i) to cure the title defect at Seller's cost and expense, or (ii) not to cure such defect (the "Seller's Title Response Notice"). Seller's failure to notify Buyer in writing within the stated time frame shall be deemed Seller's election not to cure. If Seller elects to cure, Seller shall use its commercially reasonable efforts to do so prior to Closing, and provide Buyer with an update to the Commitment demonstrating that the title defects have been cured. If Seller fails to timely cure or elects not to cure, then Buyer shall be entitled to elect to terminate this Agreement or waive such defect by delivery of written notice to Seller on or before the date that is ten (10) days after the date on which Seller's Title Response Notice was due, and if Buyer elects to terminate, Buyer shall be entitled to the return of the Deposit. If Buyer fails to timely deliver its written waiver pursuant to the preceding sentence, this Agreement shall be deemed terminated and Buyer shall be entitled to the prompt return of its Deposit. Buyer shall not be required to object to mechanics liens, mortgages, or deeds of trust caused by Seller, and the Parties agree that such items will be released at Seller's expense as of Closing.

(d) Updated Commitment. The Commitment shall be updated, together with legible copies of any additional matters identified therein, and shall be delivered to Buyer no less than ten (10) days before the Closing Date, unless there are no additional matters listed as Schedule B-2 exceptions in which case the update may be delivered at the Closing. Unless caused by Buyer or its employees, agents, contractors or subcontractors, if any updated Commitment discloses any new requirement, defect, encumbrances or other adverse matter that is not a Permitted Exception,
then Buyer shall notify Seller in writing of the new title defects on or before Closing. The procedures set forth in Section 6(c) shall be applicable to any such new title defect, and if necessary, the Closing Date shall be extended accordingly.

(e) **Survey.** Within five (5) days following the Effective Date, Seller shall deliver the most recent ALTANSPS survey of the Property ("Existing Survey") to Buyer. Buyer shall have the right, but not the obligation, at Buyer's sole cost and expense, to obtain an update to the Existing Survey ("Updated Survey" and together with the Existing Survey, the 'Survey"), which such update, if obtained, shall be certified to Buyer, Seller and the Title Company, and otherwise in form sufficient to insure deletion of the standard preprinted exceptions on the title policy.

(f) **Survey Review.** In the event the Survey reflects easements, encroachments, rights-of-way, roads, lack of access, deficiencies, overlaps, gaps or gores between any parcels included within the Property or between the Property and any adjoining streets or roads, or other defects not contained in the Permitted Exceptions to title or other matters which preclude the use of the Property for the purposes set forth in this Agreement, then Buyer shall notify Seller, in writing, of such survey defects during the Title Review Period (the "Survey Objections"). Survey Objections shall be considered as defects in title and Seller shall have the same rights and duties relating to the remedy of such survey defects as are provided in Section 6(c) pertaining to the remedy of title defects. The procedures relating to the raising and curing of Survey Objections shall be the same procedures as are provided in Section 6(c) pertaining to title defects.

(g) **Additional Title Matters.** For the purposes of this Agreement, an "Additional Title Matter" is any encumbrance on, or defect in, title to the Property that is not a Permitted Exception and that was not disclosed in the Initial Title Materials (including, without limitation, matters shown on any Survey), which was not caused by Buyer or its employees, agents, contractors or subcontractors; and the "Interim Period" refers to the period of time that is between: (A) the expiration of the Feasibility Period, and (B) Closing Date. If at any time during the Interim Period, Buyer obtains knowledge (through an update to the Commitment or the Survey, the closing Commitment or otherwise) of any Additional Title Matter which is objectionable to Buyer, Buyer shall give Seller written notice (an 'Objection Notice") of its objection to the Additional Title Matter no later than five (5) business days after the date on which Buyer receives written notice of such Additional Title Matter. Any such Additional Title Matter for which Buyer does not deliver a timely Objection Notice, shall be deemed to have been accepted by Buyer and shall be a Permitted Exception. Seller shall use commercially reasonable efforts to, within five (5) business days after receipt of an Objection Notice for an Additional Title Matter caused by Seller, its employees, agents or contractors (the "Title Cure Period"), to take reasonable actions to remove or cure or, with Buyer's consent, to obtain title insurance over the Additional Title Matter subject to such Objection Notice. In the event that Closing is scheduled to occur during the Title Cure Period, the date of Closing shall, at Seller's option, be extended to a date that is not more than thirty (30) days after the delivery of the Objection Notice to enable Seller to take any such cure actions. If Seller is unable to remove or cure using commercially reasonable efforts or, with Buyer's consent, to obtain title insurance over all such Additional Title Matters prior to the end of the Title Cure Period, Buyer may, by written notice (the "Election Notice") given to Seller within five (5) business days after the end of the Title Cure Period, elect only one of the following options:

(i) accept the Property with such defects, and waive any uncured Additional Title Matters for which Buyer has delivered an Objection Notice; or

(ii) to terminate this Agreement, and upon such termination the Deposit shall be returned by Escrow Agent to Buyer, and the Parties will have no further rights, obligations and liabilities hereunder, except those rights, obligations and liabilities that expressly survive termination; provided however, if such Additional Title Matter is caused by an act of Seller after the date hereof and is not otherwise contemplated by this
Agreement, or is a matter which Seller agreed in writing, or was obligated, to cure, then Seller shall be in default hereunder and Buyer shall have Buyer's rights and remedies under Section I I (b) hereof.

If Seller does not receive an Election Notice within such 5-business day period, Buyer shall be deemed to have elected option (i) above, in this Section 6(g).

(h) Permitted Exceptions. If this Agreement is not terminated pursuant to Section 4(b), the term "Permitted Exceptions" shall mean (i) taxes and assessments for the year of Closing and subsequent years, a lien not due and payable, (ii) any matter that is disclosed in the Initial Title Materials or any Additional Title Matter which is disclosed in any updates or supplements to the Initial Title Materials and to which Buyer does not object in accordance with Sections 6(c) or (g) or to which Buyer so objects but subsequently waives (or is deemed to have waived) its objection, or consents to title insurance over such matter, (iii) the Final Plat and the Project Documents, (iv) any easements to any special or metropolitan districts, utility providers, and governmental and quasi-governmental entities required in connection with the Final Plat or the Project Documents, (v) any title exceptions or encumbrances which are created by, through or under Buyer, or which are otherwise created, approved or waived by Buyer, (vi) that certain Option and Site Lease Agreement dated May 1, 2002, by and between The Colorado State Board of Agriculture acting by and through Colorado State University, a state institution of higher education, and Qwest Wireless, L.L.C., a Delaware limited liability company, and (vii) that certain Lease Agreement dated July 29, 2011, by and between Colorado State University and the City. Notwithstanding the foregoing terms of this Section 6(h), the following items shall be excluded from the definition of "Permitted Exceptions": (l) any delinquent taxes or assessments, (2) mechanics liens, mortgages, or deeds of trust caused by
Sellers, (3) the standard printed exception relating to mechanics liens caused by Seller, (4) any other standard printed exceptions which the Title Company has agreed to delete or will delete pursuant to an issued endorsement, which Seller expressly agrees to pay.

8. **Condemnation.** If, after the Effective Date and prior to Closing, a portion of the Property is taken (or threatened to be taken) under the power or threat of eminent domain that (i) has the effect of reducing the aggregate value of the Property by more than ten percent (10%) of the Purchase Price, or (ii) impedes proposed or current access to the Property, then, in any such event, Buyer may elect to terminate this Agreement by giving written notice to Seller of its election to terminate this Agreement (a "Material Event Termination Notice") within ten (10) days after notice of such condemnation or similar proceeding, in which case the Deposit shall be returned to Buyer, and both Seller and Buyer shall be released from further responsibility hereunder. If Buyer does not give (or has no right to give) a Material Event Termination Notice within such 10-day period, then Seller shall assign to Buyer all of Seller's right to receive condemnation proceeds after Closing payable as a result of such proceeding, and Buyer shall be entitled to an abatement of the Purchase Price in an amount equal to any condemnation proceeds received by Seller prior to Closing. Notwithstanding any provision to the contrary, in no event shall any dedication of setbacks for rights-of-way and other public areas as required by the City and disclosed in the Documents be considered a taking under the power or threat of eminent domain as intended by this Section.

9. **Seller's Conditions Precedent to Closing.** Seller's obligation to complete Closing shall be conditioned upon the satisfaction (or Seller's written waiver thereof) of the condition precedent set forth in this Section 8. Seller shall be entitled to waive, in writing, the condition precedent set forth herein. In the event that the condition precedent to Closing has not occurred on or before the Outside Closing Date, Seller may, at Seller's option exercised by written notice to Buyer, (i) extend the Closing for an amount of time, equal to the time it takes the responsible Party, utilizing good faith, best efforts, to satisfy the condition precedent for Closing, but no later than as specified in Section I(ii), or (ii) terminate this Agreement, in which event the Deposit shall be returned by Escrow Agent to Buyer, and, unless the failure of the subject condition precedent to Closing is due to the default of Buyer, which will be subject to the provisions of Section I I(a), neither Party shall thereafter have any liability to the other hereunder, other than those liabilities and obligations which by the express terms of this Agreement are intended to survive such termination. The condition precedent is as follows:

(a) Representations. Each of Buyer's representations and warranties as set forth in Section Error! Reference source not found. shall be materially true as of the date of Closing and Buyer shall so certify in writing at Closing.

10. **Buyer's Conditions Precedent to Closing.** Buyer's obligation to complete Closing shall be conditioned upon the satisfaction (or Buyer's written waiver thereof) of each of the conditions precedent set forth in this Section 9. Buyer shall be entitled to waive, in writing, each or any of the conditions precedent set forth herein. In the event that all conditions precedent to Closing have not occurred on or before the Outside Closing Date, the Parties agree that Buyer may, at Buyer's option exercised by written notice to Seller, terminate this Agreement, in which event the Deposit shall be returned by Escrow Agent to Buyer, and, unless the failure of the subject condition precedent to Closing is due to the default of Seller,
which will be subject to the provisions of Section I I(b), neither Party shall thereafter have any liability to the other hereunder, other than those liabilities and obligations which by the express terms of this Agreement are intended to survive such termination. The conditions precedent are as follows:

(a) Title Company shall deliver to Buyer or shall be unconditionally committed to issue to Buyer after Closing an extended coverage title policy (ALTA Form 2006) insuring title to the Property, without preprinted exceptions to title as set forth in Section 6(a), subject only to the Permitted Exceptions, and subject to Buyer providing any update of the Existing Survey as required by the Title Company.

(b) MqrtorJum. There shall exist no general moratorium imposed or announced by any Authority or utility supplier that would result in any Authority denying permits necessary for the development, construction, use or occupancy of the Property as a residential development or any utility supplier delaying or denying sanitary sewer, water, natural gas, electricity or telephone connections with respect to the Property.

(c) Representations. Each Of Seller's representations and warranties as set forth in Section 14(a) shall be materially true as of the date of Closing and Seller shall so certify in writing at Closing.

(d) Final Plat and Project Documents. The City and any other applicable Authorities shall have granted final, unappealable approval of the Final Plat and Project Documents (or if appeal is taken, such appeal has been resolved to the commercially reasonable satisfaction of Buyer), and the executed Final Plat has been recorded in the Clerk and Recorder's Office of Larimer County. Buyer shall use diligent and good faith efforts to record the Final Plat promptly upon approval and execution of the same.

11. Possession. At Closing, Seller shall deliver exclusive possession and occupancy of the Property to Buyer free and clear of any claims of any third parties to possession thereof, except as set forth in the Permitted Exceptions.

12. Default.

(a) Buyer Default. If Buyer is the defaulting Party, because of the difficulty in calculating damages, the Parties agree that Seller's sole and exclusive remedy at law or in equity shall be limited to the right to terminate this Agreement, to draw completely down the Letter of Credit held by Escrow Agent, and to retain the Deposit as provided in Section 3(a) as liquidated damages, and the Deposit shall be forfeited. Other than the specific remedy expressly set forth in this Section I I(a) and except for the indemnities contained in Section 4(c), Seller hereby waives any and all right and remedy, at law or in equity, to which Seller may otherwise have been entitled by reason of Buyer's default, including any right in equity to seek specific performance of this Agreement by Buyer and any right at law to seek damages from Buyer.

(b) Seller Default. If Seller fails to consummate Closing in breach of this Agreement, the Parties agree that Buyer shall have the right to elect, as its sole and exclusive remedy at law or in equity, to (i) waive such default or breach and proceed with the purchase of the Property pursuant to the remaining terms and conditions of this Agreement without any reduction of or credit against the Purchase Price; (ii) terminate this Agreement and receive a prompt return of the Deposit and reimbursement from Seller of Buyer's out-of-pocket expenses incurred in connection with this Agreement, including, without limitation, Buyer's Entitlement Costs, not to exceed $250,000.00; or (iii) pursue specific performance under this Agreement provided that such action must be commenced within ninety (90) days following Buyer's discovery of Seller's material
default under this Agreement. In the event of any default by Seller, or in the event Buyer shall be entitled to terminate this Agreement, or this Agreement shall otherwise terminate in accordance with the provisions hereof, the Deposit shall be immediately returned to Buyer as provided in Section 3(a), but such payment shall not limit Buyer's rights and remedies set forth above. Other than the specific remedies expressly set forth in I I(b) and I I(d), Buyer hereby waives any and all right and remedy, at law or in equity, to which Buyer may otherwise have been entitled by reason of Seller's default, including any right at law to seek damages from Seller, except as specified herein.

IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY PUNITIVE, SPECULATIVE OR CONSEQUENTIAL DAMAGES, EXCEPT AS PROVIDED IN SECTION 18(t), IN NO EVENT SHALL BUYER BE ENTITLED TO RECORD THIS AGREEMENT OR ANY OTHER DOCUMENT OR (EXCEPT IN THE EVENT OF A DISPUTE ARISING OUT OF THIS AGREEMENT AS NEEDED TO ENFORCE ITS RIGHTS UNDER THIS AGREEMENT) AS A LIS PENDENS AGAINST THE PROPERTY.

(c) Cure Period. Notwithstanding the provisions of Sections I (a) and (b) above, no default by either Party hereto shall result in a termination or limitation of any rights of such Party hereunder unless and until the other Party shall have notified the defaulting Party in writing of said default, and the defaulting Party shall have failed to cure said default within ten (10) days after the receipt of said written notice.

(d) No Adequate Remedy. As provided in Section I I (b), it is agreed that in the event Buyer is not in default under this Agreement and Seller is the defaulting party hereunder, and Buyer desires to seek specific performance of this Agreement, but that due to Seller's intentional, affirmative conveyance of all or a portion of the Property to a third party, such specific performance is no longer a remedy available to Buyer, then this Agreement shall terminate, the Deposit shall immediately be returned to Buyer as provided in Section 3(a), and Buyer shall receive a payment from Seller of $250,000.00 as liquidated damages, which the Parties acknowledge is a reasonable estimate of Buyer's damages for lost profits and lost business opportunity or consequential damages that would be extremely difficult or impractical to determine. If this Agreement terminates as a result of the foregoing, it is agreed that the provisions of this Section shall survive any such termination.

13. Any notice to be given pursuant to this Agreement shall be given in accordance with Exhibit G.

14. Mutual Representations. To induce each other to enter into this Agreement, each Party hereby represents and warrants to the other that (i) it has been duly authorized and empowered to enter into this Agreement and to perform fully its obligations
hereunder, (ii) such obligations constitute the valid and binding obligations of such Party, enforceable in accordance with their terms, (iii) that, except as expressly provided in this Agreement, no further consents of any other person, entity, public body or court are required in connection with this Agreement and the performance of all obligations hereunder, and (iv) it has not used the services of any real estate agent, broker or finder with respect to the transactions contemplated hereby.

15. **Warrenties and Representations.**

(a) Seller's Warranties and To induce Buyer to enter into this Agreement, Seller represents and warrants to Buyer:

(i) **Condemnation, Rezoning or Reclassification.** There is not pending, or to Seller's Actual Knowledge, threatened, any (A) condemnation proceeding or Other litigation relating to or otherwise affecting any or all Of the Property, or (B) except as contemplated by this Agreement, reclassification of any or all of the Property for local zoning purposes.

(ii) **Violations.** (A) There is not pending, or to Seller's Actual Knowledge, threatened, from any federal, state, county or local Authority any notice, suit or judgment relating to any violation at the Property, and (B) Seller has not received written notice from any governmental authority that there is any condition existing with respect to the Property that violates any statute, ordinance, law or code regarding zoning, building, fire, air pollution, or health law, or requiring any improvement, alteration, addition, correction or other work on or about the Property, whether related to the Property or to the activities of any owner or occupant thereof.

(iii) **Environmental Conditions.** To Seller's Actual Knowledge, and except as disclosed in any environmental assessment or other environmental report or documentation included as part of the Documents, within the last twenty-four (24) months, Seller has received no written notice alleging the presence of any "Hazardous Wastes". "Hazardous Material" and/or "Hazardous Substances" as those terms are defined under any federal, state or local law in, at, about or under the Property (collectively, "Hazardous Materials") in violation of any applicable federal, state or local environmental laws ("Environmental Laws"). For purposes of this Agreement, the term "Environmental Laws" shall include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq. and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., as amended from time to time; and any similar federal, state and local laws and ordinances and the regulations and rules implementing such statutes, laws and ordinances.

(iv) **Litigation.** There is no foreclosure action or litigation, arbitration or proceeding pending, or to Seller's Actual Knowledge, threatened before any court or administrative agency or any other condition that relates to or affects the Property, Seller's interest therein, Seller's performance hereunder, or Buyer's intended use of the Property, or which will result in a lien, charge, encumbrance or judgment against any part of or any interest in the Property.
Organization. Seller is validly existing under the laws of the State Of Colorado and has full power and authority to sell the Property.

Title. Except as provided in the Permitted Exceptions, to Seller's Actual Knowledge, the title to the Property is subject to no tenancy or other right Of use or occupancy which will remain in effect at or after Closing.

Restrictions. Except as disclosed in the Documents delivered to Buyer hereunder, including, without limitation, the Option and Site Lease Agreement and the City Lease, to Seller's Actual Knowledge, Seller has not entered into any unrecorded restrictions relating to the development of the Property as contemplated hereunder that would have a material, adverse impact on Buyer's intended use of the Property.

No precech. The execution and delivery of this Agreement by Seller, the execution and delivery of every other document and instrument delivered pursuant hereto by or on behalf of Seller, and the consummation of the transactions contemplated hereby do not and will not (A) constitute or result in the breach of or default under any oral or written agreement to which Seller is a party or which affects the Property; (B) constitute or result in a violation of any order, decree, or injunction with respect to which Seller and/or the Property is bound; (C) cause or entitle any Party to have a right to accelerate or declare a default under any oral or written agreement to which Seller is a party or which affects the Property; and/or (D) violate any provision of any municipal, state or federal law, statutory or otherwise, to which Seller or the Property is or may be subject.

No Assessments. There are no special, general, or other assessments pending or, to Seller's Actual Knowledge, threatened against the Property. All installments of any pending assessments due and payable on or before the Closing Date will be paid by Seller on or before Closing.

No Contracts. Seller has not entered into any other contracts, agreements or understandings, verbal or written, for the sale or transfer of any portion of the Property which are in existence as of the Effective Date. Between the date of this Agreement and Closing, no part of the Property will be alienated, encumbered or transferred by Seller.

No Commitments. Except as disclosed in the Documents delivered to Buyer hereunder, Seller has not made commitments to any Authority, school board, church or other religious body, or to any other organization, group or individual relating to the Property which would impose any obligations upon Buyer to make any contributions of money or land or to install or maintain any improvements or which would interfere with Buyer's ability to use, develop or improve the Property as herein contemplated.

Documents. The copies of the Documents furnished to Buyer pursuant to this Agreement are true and complete copies of the documents they purport to be. To the extent any of the Documents were not prepared by Seller, Seller is making no warranty as to the accuracy or quality of work included therein.
For the purposes of this Section 14(a), the phrase "Seller's Actual Knowledge" and words of similar import shall mean the present, actual knowledge, without additional inquiry or investigation being taken, of Lynn Johnson (the "Representative"). The foregoing reference to the Representative is solely for the purpose of establishing the contractual standard for Seller's knowledge. The Representative is not undertaking, and does not have, any personal obligation or liability to Buyer in connection with this Agreement.

(b) Survival. The representations and warranties of Seller set forth herein shall be true as of the Effective Date and the date of Closing and shall survive Closing for a period of one (1) year (the "Warranty Expiration Date"). Seller shall notify Buyer in writing immediately if any representation becomes untrue or misleading in light of information obtained by Seller after the Effective Date. Notwithstanding anything in this Agreement to the contrary, after Closing and subject to the Warranty Expiration Date above and the terms of Section 18(e) below, except for claims based upon fraud, the maximum aggregate liability of Seller, and the maximum aggregate amount which may be awarded to the collected by Buyer under this Agreement or any documents executed pursuant hereto or in the connection herewith, will under no circumstances whatsoever exceed two percent (2%) of the Purchase Price ("Maximum Seller Liability"). This indemnification is in addition to any remedies set forth in Section 11.

Buyer's Warranties and Representations
To induce Seller to enter into this Agreement, to Buyer's knowledge represents and warrants to Seller:

(i) Organization. Buyer is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Colorado, and shall as of Closing, have full power and authority to purchase the Property.

(ii) No Breach. The execution and delivery of this Agreement by Buyer, the execution and delivery of every other document and instrument delivered pursuant hereto or on behalf of Buyer, and the consummation of the transactions contemplated hereby do not and will not (A) constitute or result in the breach of or default under any oral or written agreement to which Buyer is a party; (B) constitute or result in a violation of any order, decree, or injunction with respect to which Buyer is bound, (C) cause or entitle any party to have a right to accelerate or declare a default under any oral or written agreement to which Buyer is a party; and/or (D) violate any provision of any municipal, state or federal law, statutory or otherwise, to which Seller is or may be subject.

(iii) Litigation. There is no pending or threatened litigation, which would affect Buyer's ability to perform under this Agreement.

(c) As-is Provision. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE AS FOLLOWS: (A) BUYER is a SOPHISTICATED BUYER THAT IS FAMILIAR WITH THIS TYPE OF PROPERTY; (B) EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE DEED, AND/OR ANY OTHER DOCUMENT OR INSTRUMENT DELIVERED BY, OR ON BEHALF OF, SELLER AT CLOSING (THE "EXPRESS REPRESENTATIONS"), NEITHER SELLER NOR ANY OF ITS AGENTS, REPRESENTATIVES, BROKERS, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, OR EMPLOYEES HAS MADE OR WILL MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, AND INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING FITNESS FOR ANY PARTICULAR PURPOSE, COMPLIANCE WITH ANY LAW, RULE, REGULATION, ORDER, OR REQUIREMENT, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR SUITABILITY OF THE PROPERTY, AND SELLER DISCLAIMS ALL
SUCH REPRESENTATIONS AND WARRANTIES; AND (C) THE PROPERTY IS BEING SOLD TO BUYER IN ITS PRESENT "AS-IS" CONDITION SUBJECT TO THE EXPRESS REPRESENTATIONS. SUBJECT TO THE EXPRESS REPRESENTATIONS AND THE TERMS HEREOF, BUYER WILL BE AFFORDED THE OPPORTUNITY TO MAKE ANY AND ALL INSPECTIONS OF THE PROPERTY AND SUCH RELATED MATTERS AS BUYER MAY REASONABLY DESIRE.

(d) Except for the representations made by Seller as expressly provided Section 14 above and in the deed delivered at Closing, effective on the Closing Date, Buyer and Buyer's successors and assigns, hereby release Seller from, and waive any and all claims against Seller resulting from the physical, environmental, economic or legal condition of the Property, whether arising or accruing before, on or after the date hereof and whether attributable to events or circumstances which have heretofore or may hereafter occur, including, without limitation, the following (i) any and all liabilities with respect to the structural, physical, or environmental condition of the Property; (ii) any and all liabilities relating to the release of or the presence, discovery or removal of any Hazardous Materials, or for, connected with or arising out of any and all claims or causes of action based upon any Environmental Laws, or any related claims or causes of action or any other federal, state or municipal based statutory or regulatory causes of action for environmental contamination at, in, about or under the Property, and (iii) any implied or statutory warranties or guaranties of fitness, merchantability or any other statutory or implied warranty or guaranty of any kind or nature regarding or relating to any portion of the Property.

IS. Additional Purchase Price. As provided in Section 3(b), from and after Closing, Buyer agrees to pay to Seller in the manner specified below the amount of the Additional Purchase Price, as follows:

(a) Calculation of Additional Purchase Price “Additional Purchase Price” shall mean the amount equal to the sum of (i) $500,000, and (ii) up to $250,000 of the amount of the Additional Purchase Price paid to Seller in connection with the sale of the Property.

(b) The Additional Purchase Price shall be paid to Seller in the following manner:

(i) $100,000

(ii) $150,000

(iii) $100,000

(iv) $50,000

(v) $0
Notwithstanding anything in the foregoing to the contrary, the Total Costs shall not include any of the foregoing expenses to the extent funded by or otherwise reimbursed by the District or any Other public financing districts including or related to the Property.

(c) Payment of Additional Purchase Price.

(i) Generally. The Additional Purchase Price for each Int due Seller shall be paid at the Retail Closing with respect to each Home conveyed in the Project by Buyer to a homebuyer. Along with such payment, Buyer shall deliver to Seller an accounting in the form of Exhibit H attached hereto and incorporated herein setting forth the Additional Purchase Price due Seller with respect to each Home conveyed in the Project by Buyer during the prior year.

(ii) Final Sale and Reconciliation. Within ninety (90) days after the close of escrow for the sale of the last Home in the Project (the "Final Sale"), Buyer shall complete and submit to Seller an accounting consistent with the details of the calculation Of Additional Purchase Price in this Agreement together with a check made payable to Seller in the amount of the balance of any Additional Purchase Price remaining payable for the Project. If the final accounting or any Audit (as defined below) shows any deficiency in amounts due to Seller, or any overpayment by Buyer, such deficiency shall be immediately paid by Buyer or overpayment reimbursed by Seller, as the case may be. Notwithstanding anything to the contrary herein, the Parties acknowledge and agree that the Additional Purchase price is a material consideration in Seller's agreement to sell the Property to Buyer, and Buyer agrees that it shall proceed with development of the Project and the sale of Homes with good faith and commercially reasonable efforts.

(d) Financial Records and Statements of Buyer. Buyer shall keep and maintain, or cause to be kept and maintained, accurate financial books and records for the Project in accordance with Buyer's normal accounting principles (collectively, the "Financial Records"),
provided that such Financial Records must evidence the information reasonably necessary to calculate Net Profits in accordance with Section 15(b). The Financial Records shall include all supporting documentation relative to sales and cost of sales, and shall be maintained by Buyer for three (3) years after the Final Sale. Within ten (10) business days after the written request of Seller, Buyer shall provide to Seller copies of the current Financial Records. Notwithstanding the foregoing (i) Buyer shall not be required to provide Financial Records more than once per year, and (ii) upon Buyer's request, Seller shall sign and deliver a reasonable confidentiality agreement with respect to the Financial Records.

(e) Audit. At the option of Seller and, except as set forth below, at Seller's cost, exercised by written notice to Buyer, during the six (6) month period following the Final Sale, Buyer's books and records for the Project shall be audited by an independent certified public accountant licensed in the State of Colorado mutually agreeable to Seller and Buyer for the purpose of verifying the calculation of Net Profits and the Additional Purchase Price, if any, due Seller for the Project (the "Audit"). The Audit shall be binding upon the Parties. Buyer shall make available to the auditor at Buyer's business office, within ten (10) business days after notice of Audit, all of the books and records of Buyer for the Project which such auditor deems necessary or desirable for the purpose of performing the Audit. Any deficiency in amounts due to Seller, or any overpayment by Buyer, as determined by the Audit, shall be immediately paid by Buyer or reimbursed by Seller, as the case may be. If the Additional Purchase Price due to Seller, as determined by the Audit, is at least one hundred ten percent (110%) of the amount theretofore paid by Buyer, Buyer shall also pay to Seller the reasonable cost of the Audit.

(f) Early Transfer. Any sale, conveyance, exchange or transfer of all or any portion of the Property by Buyer prior to a Retail Closing shall be deemed to be an "Early Transfer"; provided, however, an Early Transfer shall not be deemed to have occurred by reason of the fact that such portion of the Property (the "Early Transfer Property") is encumbered by a first mortgage on the Property that was funded by a lender not affiliated with Buyer to provide acquisition, development and construction financing for the Property. Buyer shall not make an Early Transfer of a portion of the Property to any party except in accordance with the terms hereof. At least 30 days prior to the contemplated date of an Early Transfer, Buyer shall give written notice to Seller ("Buyer's Early Transfer Notice") of the proposed Early Transfer and deliver to Seller any information reasonably requested by Seller with respect to the terms of the proposed Early Transfer and the proposed transferee. Prior to the closing of any Early Transfer, Buyer shall record in the real property records for the Early Transfer Property in Larimer County, Colorado a covenant in form reasonably acceptable to Seller providing for the payment of the Additional Purchase Price to Seller in accordance with this Section 15 upon the occurrence of a Retail Closing with respect to all or any portion of the Early Transfer Property.

16. Ancillary Covenants.

(a) Special Taxing District Disclosure. NOTICE: In accordance with the provisions of C.R.S. 98-35.7-101(1), Seller provides the following disclosure to Buyer:

SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES.
LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

(b) Water Disclosure. In accordance with the provisions of C.R.S. 98-35.7-104, Seller provides the following disclosure to Buyer:

THE SOURCE OF POTABLE WATER FOR THIS REAL ESTATE IS A WATER PROVIDER, WHICH CAN BE CONTACTED AS FOLLOWS:

NAME: City of Fort Collins
ADDRESS: Utilities Customer Service 222 Laporte Ave.
          Fort Collins, CO 80524
WEBSITE: https://www.fcgov.com
TELEPHONE: 970-212-2900

SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NON RENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER TO DETERMINE THE LONG-TERM SUFFICIENCY OF PROVIDER'S WATER SUPPLIES.

(c) Disclosure of Oil and Gas Activity. The following disclosure is included in accordance with C.R.S. 38-35.7-108:

THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE. THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.
(d) Interstate Land Sales Full Disclosure Act and Colorado Subdivision Developers Act Exemptions. It is acknowledged and agreed by the Parties that the sale of the Property will be exempt from the provisions of the Federal Interstate Land Sales Full Disclosure Act under the exemption applicable to sale or lease of property to any person who acquires such property for the purpose of engaging in the business of constructing residential, commercial or industrial buildings or for the purpose of resale of such property to persons engaged in such business. Buyer hereby represents and warrants to Seller that it is acquiring the Property for such purposes. It is further acknowledged by the Parties that the sale of the Property will be exempt under the provisions of the Colorado Subdivision Developers Act under the exemption applicable to transfers between developers. Buyer represents and warrants to Seller that Buyer is acquiring the Property for the purpose of participating as the owner of the Property in the development, promotion and/or sale of the Property and portions thereof.

17. Confidentiality.

(a) Confidential Information. Each Party shall, and shall cause its employees, agents and representatives ("Representatives") to, keep confidential and refrain from using, except in connection with this Agreement, all "Confidential Information" of the other Party. For purposes of this Agreement, "Confidential Information" means, with respect to a Party ("Disclosing Party") any and all such information of a confidential or proprietary nature furnished (whether in written or oral form, electronically stored or otherwise) to the other Party (the "Recipient") or the Recipient's Representatives, whether before, on or after the date hereof, including without limitation, any analyses, notes, data, compilations, summaries, forecasts, studies or other documents and materials prepared in connection with their review of, or interest in, entering into this Agreement, or their performance of any Of the services or obligations contemplated hereunder, that is identified as confidential at the time of disclosure, or the Recipient knows it is intended to remain confidential, due to its nature or the circumstance under which it is disclosed. The term "Confidential Information" will not however, include information of a Disclosing Party that (i) was or becomes publicly available other than as a result of a disclosure directly or indirectly by or on behalf of the Recipient or its Representative; (ii) was or becomes available to the Recipient on a non-confidential basis; (iii) was rightfully in the possession of the Recipient prior to disclosure by the Disclosing Party; or (iv) was developed independently without access to the Confidential Information.

(b) Non-Disclosure. Each recipient will only disclose the Confidential Information Of the Other Party to those Representatives of such recipient who have a need to know such information in connection with the execution and performance of the Parties' respective rights and obligations under this Agreement. Anyone to whom any Confidential Information is disclosed shall be (a) advised of the existence of this Section 17 of this Agreement and of such recipient's obligations hereunder, and shall agree to be bound by the terms hereof to the same extent as if they were parties hereto, or (b) bound under a written agreement (including a pre-existing written agreement) or other legal, contractual or fiduciary obligation to protect the Confidential Information from unauthorized use and disclosure. In any event, each Patty shall, at its sole expense, take all commercially reasonable measures to restrain its Representatives from prohibited or unauthorized disclosure, distribution or use of the Confidential Information.

(c) Legally Required Disclosure. The Seller's obligations under this Section 17 are to the extent permitted by the Colorado Open Records Act ("CORA"). In the event a Recipient or any of its Representatives is required by law, regulation or court order to disclose any of the corresponding Disclosing Party's Confidential Information, such Recipient shall
promptly notify the Disclosing Party in writing prior to any party making any such disclosure so that the Disclosing Party, at its sole expense, might seek a protective order or other appropriate remedy from the proper authority. Each Recipient agrees to cooperate with the corresponding Disclosing Party in seeking any such order or other remedy. Each Recipient further agrees that if the corresponding Disclosing Party is not successful in precluding the requesting legal body or authority from requiring the disclosure of any Confidential Information, such Recipient or its Representatives will furnish only that portion of the Confidential Information that it is legally required to be disclosed and will exercise its reasonable best efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information in such proceeding.

(d) Colorado Open Records Act. It is acknowledged that the Seller is subject to the requirements of CORA and Buyer shall assist and cooperate with the Seller (on request and at each Party's own expense) to enable the Seller to comply with the information disclosure requirements imposed by CORA. Where a Party receives a request for Confidential Information it shall notify the other Party in writing within three (3) business days of receipt of such request for information.

(i) The Parties agree and acknowledge that Seller shall be responsible for determining in its absolute and sole discretion whether the Confidential Information held by it is exempt from disclosure under CORA or is to be disclosed in response to a request for information.

(ii) If Seller determines it is obligated to disclose information in response to such request for information, it shall notify Buyer of that decision as soon as reasonably possible, and in any event, at least two (2) business days before disclosure and give due consideration to any objections, without prejudice to the Seller's rights,

(iii) Notwithstanding other notification provisions in this Agreement, the notifications required by this Section may be made by any method reasonably calculated to ensure receipt, including electronic mail.

(e) Press Release. Notwithstanding anything in the foregoing to the contrary, Seller and Buyer shall reasonably cooperate to draft and issue a mutually agreeable press release announcing the proposed sale of the Property following the execution of this Agreement. Seller agrees to coordinate with and afford Buyer the opportunity to participate in the press release.

18. Gengml

(a) Entire Agreement. This Agreement constitutes the final and entire Agreement between the Parties and they shall not be bound by any terms, covenants, conditions, representations or warranties not expressly contained herein. This Agreement may not be amended except by written instrument executed by both Parties.

(b) Partial Invalidity. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(c) Time of the Essence. Time is of the essence of this Agreement and the performance of the terms and conditions hereof.

(d) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and assigns. Buyer shall not have the right to assign the Agreement without Seller's prior written consent, which consent may be given or withheld in Seller's reasonable discretion; provided that
Buyer shall in no event be released from any of its obligations or liabilities hereunder as a result of any such approved assignment. Notwithstanding the foregoing to the contrary, Buyer is permitted to assign this Agreement, in whole or in part, without Seller's consent to an Affiliate of Buyer, provided that, (i) assignee assumes Buyer's obligations under this Agreement pursuant to a written agreement in form and substance reasonably acceptable to Seller; (ii) Seller receives a copy of such assignment and assumption agreement on or before three (3) business days prior to Closing and reaffirms all of the representations and warranties of Buyer herein and (iii) Buyer shall remain liable for, and shall not be released from the performance of, Buyer's obligations under this Agreement after such assignment. Whenever reference is made in this Agreement to Seller or Buyer, such reference shall include the successors and assigns of such party under this Agreement. For purposes of this Section, "Affiliate" shall mean an entity that directly or indirectly through one or more intermediaries' controls, or is controlled by, or is under the common control with, the Buyer.

(e) Governmental Immunity. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq., or the Federal Tort Claims Act, 28 U.S.C. 1346(b) and 2671, et seq., as applicable now or hereafter amended.

(d) Choice or Law. Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this Section 18(f) in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

(g) Binding Arbitration Prohibited. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

(h) Emolument Financial Interest. C.R.S. 24-18-201 and 24-50507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement.

(i) No Violation of Law. The signatories aver that they are familiar with C.R.S. 18-8-301, et seq. (Bribery and Corrupt Influences) and C.R.S. 18-8-01, et seq. (Abuse of Public Office) and that no violation of such provisions is present in this Agreement.

G) Use of "Colorado State University", "CSU" or "Hughes Stadium". Buyer may only state that the Property is located at the former Hughes Stadium site for the purpose of providing information as to the general location of the Property in advertisements concerning the Property or to refer to the Property as the "Hughes Subdivision". Except as hereinabove permitted, Buyer agrees that it shall not use or allow the use of the name "Colorado State University", "CSU" or "Hughes Stadium" in any manner to name, designate, advertise, sell or develop the Property or in any manner or connection with the operations or businesses located or to be located on the Property. The restriction in this Section 18(j) shall survive Closing.
(k) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(l) **Headings.** The headings of the Sections, subsections, paragraphs and subparagraphs hereof are provided for convenience of reference only, and shall not be considered in construing their contents.

(m) Each writing or plat or plan referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit is incorporated herein by reference and made a part hereof. The following exhibits are attached hereto:

- Exhibit A: Legal Description of Property
- Exhibit B: Escrow Agent's Standard Escrow Provisions
- Exhibit C: Form Deed
- Exhibit D: Closing Documents
- Exhibit E: Permitted Exceptions
- Exhibit F: Additional Obligations of Seller
- Exhibit G: Notice Addresses
- Exhibit H: Additional Purchase Price Schedule

(n) **Time Periods.** Any and all references in this Agreement to time periods which are specified by reference to a certain number of days refer to calendar days, unless "business days" is otherwise expressly provided. Therefore, if (a) the last date by which Closing is permitted to occur hereunder, or (b) any date by which a Party is required to provide the other Party with notice hereunder, occurs on a Saturday or a Sunday or a banking holiday in the jurisdiction where the Property is located, then in any of such events, such applicable dates shall be deemed to occur, for all purposes of this Agreement, on that calendar day which is the next, succeeding day, which is not a Saturday, Sunday or banking holiday.

(o) **No Partnership.** Nothing in this Agreement shall be deemed in any way to create between the Parties any relationship of partnership, joint venture or association, and the Parties disclaim the existence thereof.

(p) **Escrow Provisions.** The Escrow Agent's actions and the Parties' obligations in regard to any escrow shall be governed by Escrow Agent's standard escrow provisions attached as Exhibit B to the extent that they are not inconsistent with this Agreement.

(q) **Waivers.** No Party shall be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by any Party hereto in exercising any such right shall be deemed a waiver of its
future exercise). No such waiver made as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

(r) WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER AND BUYER EACH HEREBY WAIVES RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF THIS
AGREEMENT AND THE RESPECTIVE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO.

(s) Facsimile and PDF Copies. Facsimile copies or PDF copies sent by email of the Agreement and any amendments hereto and any signatures thereon shall be considered for all purposes as originals.

(t) Memorandum Of Agreement. Upon delivery of the Suitability Notice by Buyer, Seller shall be obligated to record a Memorandum Of Purchase and Sale Agreement (the "Memorandum") in the real property records of Larimer County, Colorado, evidencing: (i) Buyer's interest in the Property, and (ii) Buyer's and/or its successor's obligation to pay the Additional Purchase Price to Seller pursuant to Section 15 above, in a form to be negotiated and reasonably and mutually acceptable to the Parties prior to expiration of the Feasibility Period; provided that, prior to recording the Memorandum, Buyer will deliver a duly executed Release of the Memorandum to the Title Company to be held in escrow, and recorded by the Title Company in the event of termination of this Agreement or default by Buyer under this Agreement. After Closing, Seller shall be obligated to release the Memorandum of record by delivery of a quit claim deed or other evidence of termination satisfactory to the title company for any Lot subject to a Retail Closing immediately upon payment by Buyer to Seller of the Additional Purchase Price applicable to such Lot pursuant to Section 5 above.

[Signatures on following page.]
IN WITNESS WHEREOF, the Parties hereto have executed under seal this Purchase and Sale Agreement as of the Effective Date.

SELLER:

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY

By: [Signature]
Name: Anthony A. Frank
Title: Chancellor
Date: January 30, 2019

Division of University Operations
318 Administration Building
Colorado State University
Fort Collins, CO 80523-600

LEGAL REVIEW:

By: [Signature]
Name: [Name]
Title: General Counsel
Date: [Date]

Office of the General Counsel
Colorado State University System
01 Administration Building
Fort Collins, CO 80523-0006

BUYER:
LENNAR COLORADO, LLC, a Colorado limited liability company

Name: Daniel Nickless
Title: Vice President
The undersigned joins in the execution of the foregoing Agreement for the sole purpose of agreeing to hold and apply the Deposit subject to and in accordance with the terms of the foregoing Agreement.

ESCROW AGENT:

FIDELITY NATIONAL TITLE COMPANY

By:

Name: A. Norris

Title:

Date: 12/31/19
AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT

Legal Description of the Property

Beginning at the East quarter corner (E 1/4) of Section 20, Township 7 North, Range 69 West of the Sixth Principal Meridian; thence South 00º 14' West, 1390.9 feet; thence South 87º59' West, 1473.5 feet; thence South 78º25' West, 1214.3 feet; thence North 00º 02'8' East, 245.1.0 feet; thence North 57º44' East 66.1 feet, thence on a regular curve to the left with a radius of 336.48 feet, 149.4 feet; thence North 32º 17' East, 0.2 feet, thence on a regular curve to the left with a radius of 240.99 feet, 133.2 feet; thence North 00º27' East, 111.2 feet; thence on a regular curve to the right with a radius of 236.48 feet, 99.5 feet; thence North 86º 49' East, 2437.4 feet; thence South 00º 14' West, 1391.7 feet to the Point of Beginning, subject to existing public road right-of-way running through the Southeast corner.

EXCEPT that portion conveyed to the City of Fort Collins in Deed recorded November 19, 1998 at Reception No. 98101735, described as follows: Considering the East line of the Southeast Quarter of said Section 20 as bearing SOOº 14' 18" W from a aluminum cap in monument box at the East Quarter corner of said Section 20 to a aluminum cap in a monument box at the Southeast corner of said Section 20 and with all bearings contained herein relative thereto; Commencing at the East Quarter corner of said Section 20; thence along said East line, S 00º14' 1 8" E, I 153.43 feet to the Point of Beginning; thence continuing along said East line, S 00º 14' 18" W, 237.64 feet to a point on the South line of the North half of said Southeast Quarter; thence along said South line, S 88º00'04" W, 1,473.03 feet; thence N 78º53'33" E, 1,501.23 feet to the Point of Beginning, County of Larimer, State of Colorado.
AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY
SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT

F. Escrow Provisions

Buyer and Seller, jointly and severally, hereby agree to indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement, including, without limitation, attorneys' fees and the cost of defending any actions, suit or proceeding or resisting any claim.

2. In the event of a dispute between the Parties as to the disposition of the Deposit or any other escrow monies held by the Escrow Agent or actions taken by or contemplated by the Escrow Agent, Buyer and Seller agree to settlement of such dispute by the methods more specifically contained in the Agreement of Sale. Immediately upon receipt of written notification to the Escrow Agent of an escrow funds dispute which cannot be resolved between the Parties, including any contract default having occurred due to failure to close, Escrow Agent agrees to notify the Parties that unless the Parties mutually select an arbitrator within five (5) business days of notification, Escrow Agent will submit the matter to AAA to settle the dispute as quickly as possible. The decision and awarding of any funds by the Arbitrator shall be final and binding upon the Parties hereto. Within three (3) business days after the Arbitrator has resolved the dispute and rendered written directions, the Escrow Agent shall turn over any escrow monies together with any interest earned thereon to the appropriate party due all or part of the funds set forth in the written directions.

Alternatively, in the event of any controversy involving the Deposit or any other escrow funds, the Escrow Holder may, upon agreement by Buyer and Seller, charge one-half of its fees and costs to Seller and one-half of its fees and costs to Buyer, and then place all or portions of the Deposit or any other escrow funds in the registry of any court of competent jurisdiction, and upon payment of such funds in to the court registry, Escrow Holder shall be released from all further liability in connection with the funds delivered.

3. The Escrow Agent shall not be bound by any other agreement whether or not it has knowledge of the existence thereof or of its terms and conditions, and is required only to hold the Deposit as herein set forth and to make payment or other disposition thereof as hereinbefore stated.

4. Escrow Agent shall not be liable for any mistakes of fact, or errors of judgment, or for any acts or omission of any kind unless caused by the willful misconduct or gross negligence of Escrow Agent.

5. Escrow Agent may resign upon ten (10) days written notice to the Parties to their addresses set forth herein. If a successor escrow agent is not appointed within a fourteen (14) day period following such resignation, the Escrow Agent may petition a court of competent jurisdiction to name a successor. The costs of such action shall be paid by Seller and Buyer on an equal basis, and shall be subject to the provisions of Section I hereof.
AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY
SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT C

SPECIAL WARRANTY DEED

THIS DEED, dated __________ 20__, between THE BOARD OF GOVERNORS OF THE
COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO
STATE UNIVERSITY ("Grantor"), whose address is c/o Colorado State University Research Foundation,
2537 Research Blvd, suite 200, Ft. Collins, CO 80525; and LENNAR COLORADO, LLC, a Colorado limited
liability company ("Grantee"), whose address is 9193 S. Jamaica Street, 4th Fl., Englewood, CO 80112.

WITNESS, that Grantor, for and in consideration of the sum of __________ Dollars ($__________), the receipt and sufficiency of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto Grantee all of the real property
described on Exhibit A, attached hereto and incorporated herein by this reference, located in the
County of Larimer, State Of Colorado, together with improvements and appurtenances, belonging or
in any way appertaining and the reversion and reversions, remainder and remainders, rents, issues,
and profits thereof; and all the estate, right, title, interest, claim, and demand whatsoever of the
Grantor, either in law or equity, Of, in, and to the above real property (the "Property").

Grantor does hereby covenant and agree that it shall WARRANT AND FOREVER DEFEND
the title to the Property for the benefit of Grantee against all persons claiming by, through or under
Grantor, subject to the matters described on Exhibit A attached hereto, and incorporated herein by
this reference.

IN WITNESS WHEREOF, Grantor has executed this deed to be effective on the date set
forth above.

GRANTOR:
THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY
By: ______________________________
Name: ______________________________
Its: ______________________________

STATE OF COLORADO ) SS.
COUNTY OF __________________________

The foregoing instrument was acknowledged before me this day of

36
20—, by as the Board of Governors of the Colorado State University System, acting by and through Colorado State University.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

1 SEALI

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Exhibit A to Special Warranty Deed Legal Description of Property

[To be inserted prior to Closing]
Exhibit B to
Special Warranty Deed

Permitted Exceptions

I. TAXES FOR THE YEAR 20 AND SUBSEQUENT YEARS.

[TO be inserted prior to Closing]
AGREEMENT OF SALE
by and between
THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY
SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT p

Closing Documents to be Delivered to Buyer

(a) If required by Title Company, a certified copy of the resolution of Seller's Board of Directors authorizing and approving this Agreement and the transactions contemplated herein and the execution of the Agreement and the Closing documents;

(b) A special warranty deed in form attached as Exhibit C, which conveys fee simple title to the Property;

(c) An assignment, without warranty, of Seller's rights, title and interest, if any, in all permits, plans, licenses, approvals, certificates, entitlements, development agreements and related items included within the Documents and, in each case, to the extent assignable;

(c) A Foreign Investment in Real Property Tax Act ("FIRVTA") certification in conformance with the requirements of FIRVTA;

(e) All consents which may be required from any third person or entity in connection with the sale of the Property;

(f) The Seller's Affidavit in the form required by the Title Company and reasonably acceptable to the Seller, and

(g) Such other documents or instruments as may be required by other provisions of this Agreement or reasonably required by Buyer to effectuate Closing.

All of the documents and instruments to be delivered by Seller pursuant to this Exhibit shall be in form and substance reasonably satisfactory to counsel for Buyer.

Closing Documents to be Delivered to Seller

(a) The Purchase Price;
(b) If required by Title Company, satisfactory evidence that the person or persons executing the Closing documents on behalf of Buyer have full right, power and authority to do so;

(c) the Real Property Transfer Declaration required by applicable Colorado law;

(d) All consents which may be required from any third person or entity in connection with the purchase of the Property;

(e) The Buyer's Affidavit in the form required by the Title Company and as reasonably acceptable to Buyer;

(f) Such other documents or instruments as may be required by other provisions of this Agreement or reasonably required by Seller to effectuate Closing.

All of the documents and instruments to be delivered by Buyer pursuant to this Exhibit shall be in form and substance reasonably satisfactory to counsel for Seller.
AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and

LENNAR COLORADO, LLC, as Buyer

EXHIBIT E

Permitted Exceptions

[to be inserted during Feasibility Period]

TAXES FOR THE YEAR 20_ AND SUBSEQUENT YEARS.

Buyer's Initials

Date Agreed:

Seller's Initials AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller
and

LENNAR COLORADO, LLC, as Buyer

EXHIBIT F

Additional Obligations of Seller

(Insert, if any during the Feasibility Period.)
AGREEMENT OF SALE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY
SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT G

Notice

Any notice to be given to any Party hereto in connection with this Agreement shall be in writing and shall be deemed received (a) on the date delivered if hand delivered by receipted hand delivery or by electronic transmission, and (b) two (2) days after postmark if sent postage prepaid by certified or registered mail, return receipt requested. Notices to the Parties shall be sent to their addresses set forth below. Either Party, by written notice to the other, may change its address to which notices are to be sent. The Parties shall copy Escrow Agent on all notices sent hereunder, but failure to notify Escrow Agent shall not be deemed a failure of notice to a Party to whom notice has been given. Any default notice under this Agreement sent by electronic transmission must be followed by the delivery of a hard copy.

Buyer's Address: Lennar Colorado, LLC
9193 S. Jamaica Street, 4th Fl.
Englewood, CO 80121
Attn: Daniel J. Nickless, Land President
Telephone: 303-486-5063
Email: daniel.nickless@lennar.com

With copy to: Rebecca W. Dow, Esq.
Holland & Hart LLP
555 17th Street, suite 3200
Denver, Colorado 80202
Telephone: 303-295-8413
Email: rdow@hollandhart.com

Escrow Agent's Address: Fidelity National Title Company
3500 John F. Kennedy Pkwy., Ste. 100
Fort Collins, CO 80525
Attention: Julie Norris
Telephone: (970) 212-7750
Email: jnorris@fnLcom

Seller's Address: Colorado State University c/o Colorado State University Research Foundation 2537 Research Blvd., Suite 200
Fort Collins, CO 80526

G-1
With a CODV

Marc C. Diamant, Esq.
Brownstein Hyatt Farber Schreck, LLP
410 17th st., 22nd Floor
Denver, CO 80202-4437
Telephone: 303-223-1132
Email: mdiamant@bhfs.com
by and between
THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY
SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and
LENNAR COLORADO, LLC, as Buyer

EXHIBIT H

Additional Purchase Price Payment Schedule

[See attached.]
CALCULATION OF ADDITIONAL PURCHASE PRICE

by and between

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERSITY SYSTEM, acting by and through COLORADO STATE UNIVERSITY, as Seller and

LENNAR COLORADO, LLC, as Buyer

Lot No. ___________________  Address: ___________________
Plan No. ___________________  Closing Date: ________________
EXHIBIT 1

Form or Letter of Credit

(See attached.)

IRREVOCABLE STANDBY LETTER OF CREDIT NO. FGAC.XXXXX

BENEFICIARY:

APPLICANT:

LC AMOUNT USDSXXX.XX (AMOUNT IN WORDS US DOLLARS)

EXPIRATION DATE: (DAY AT OUR OPTION)

RE:

GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. FGAC.XXXXX IN YOUR FAVOR AT THE REQUEST AND FOR THE ACCOUNT OF (APPLICANT) IN AN AGGREGATE AMOUNT NOT TO EXCEED THE LC AMOUNT, ACCOMPANIED BY THE ORIGINAL OF THIS LETTER.
EXCEED THE
THIS LETTER OF CREDIT IS AVAILABLE BY YOUR DRAFt(S) DRAWn AT S1 DULY
AND MANUALLY SIGNED AND MARKED: “DRAWn UNDER
LETTER OF CREDIT NO. FOAC.XXXXX DATED MOMMI XXu zOXX•• WHEN A
OF CREDIT AND ALL ORiGInAL AMENDMENTS, IF ANY. AND THE FOLLOWING DOCUMENT(S);
BENEFICIARY’s CERTIFICATE DULY AND MANUALLY SIGNED AND DATED BY AN AUTHORIZED OFFICER SIGNING AS
SUCH ON ITS LETTERHEAD READING EXACTLY AS FOLLOWS-
"(THE AMOUNT REPRESENTED BY THE DRAFT ACCOMPANYING THIS STATEMENT IS THE AMOUNT REQUIRED TO
BE PAID TO THE BENEFICIARY ON ACCOUNT OF THE DEFAULT OF [APPLICANT) UNDER THE AGREEMENT NAME)
DATED ON OR AROUND ( DATE). (THE "AGREEMENT”) BY AND BETWEEN [BENEFICIARY], AS AND [APPLICANT), AS
1-1; THAT [APPLICANT) HAS BEEN GIVEN WRITTEN NOTICE BY [BENEFICIARY) DESCRIBING THE EVENT OR
CONDITION OF SUCH DEFAULT IN REASONABLE DETAIL BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED; THE
DEFAULT HAS NOT BEEN CURED WITHIN THE CURE PERIOD PROVIDED THEREIN, IF ANY. AND THAT
[BENEFICIARY) IS NOT IN DEFAULT UNDER THE TERMS AND CONDITIONS OF THE AGREEMENT AND AS SUCH IS
ENTITLED TO BE PAID THE PROCEEDS OF THIS LETTER OF CREDIT UNDER THE TERMS OF THE AGREEMENT."
THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH UNDERTAKING SHALL NOT
IN ANY WAY BE MODIFIED, AMENDED. AMPLIFIED OR LIMITED BY REFERENCE TO ANY DOCUMENT. INSTRUMENT OR
AGREEMENT REFERRED TO HEREIN OR IN WHICH THIS LETTER OF CREDIT IS REFERRED TO OR WHICH THIS LETTER OF
CREDIT RELATES, AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN ANY SUCH DOCUMENT,
INSTRUMENT OR AGREEMENT.
WE HEREBY ENGAGE WITH BENEFICIARY THAT ALL SIGHT DRAFTS DRAWn UNDER AND IN CONFORMITY WITH THE
PAYMENT TOGETHER WITH THE DOCUMENTS REQUfED AN AND TO BE PRESENTED FOR HONORED IF DRAWN AND PRESENTED FOR
DATE. PRESENTATIONS MAY BE MADE BY REGISTRY OR IF DRAWN AN
IRED HEREIN
IF PRESENTED BY
E TERFD OR CFRT(F/TIED MAIL, RETURN RECEIPT REQUESTED OR BY
FEDERAL EXPRESS OR ANY OTHER NATIONALLY RECOGNIZED COURIER COMPANY.
THIS LETTER OF CREDIT IS SUBJECT TO AND GOVERNED BY THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO
PRINCIPLES OF CONFLICT OF LAW), AND EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN. IS SUBJECT TO THE
INTERNATIONAL STANDBY PRACTICES 1998. INTERNATIONAL CHAMBER OF COMMERCE • PUBLICATION NO. 590
("ISP98") AND IN THE EVENT OF ANY CONFLICT, THE LAWS OF THE STATE OF FLORIDA WILL CONTROL.
VERY TRULY YOURS.

AUTHORIZED SIGNER. TITLE

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1857W65.2
November 17, 2019

Communication to City Council Members:

Ross Cunniff, Emily Gorgol, Susan Gutowsky, Julie Pignataro, Kristin Stephens, Ken Summers, and Wade Troxell

Thank you Councilmembers Cunniff, Gutowsky and Pignataro for listening to the Fort Collins community on November 5, 2019, and for voting against the proposed zoning submitted by the City Planning Department. Unfortunately, your job is not over yet. The zoning of the former Hughes Stadium Site (Hughes Property) must be given another vote at the second reading on November 19, 2019. We respectfully request the vote be proposed by one of you!

The process for reaching decisions regarding critical zoning issues that impact the livability of the residents of the City of Fort Collins is unfairly weighted toward the City Planners and their recommendation. Yes, the community provides public statements; however, the community does not get to question the City directly, and cannot challenge statements made or information omitted. There was a clear need to clarify, question and rebut several misinformed points made at the Council meeting on November 5th during the discussion and deliberation process.

At the November 5 meeting, when Cameron Gloss was asked about density on the Hughes Property, he stated that he thought “about 550 units” would be the most that could be built there. What he didn’t say AND avoided with every answer is that once the zoning is approved, as long as the plan submitted by the builder meets minimum code, the City has no control over how many units will be built. Why didn’t someone ask Mr. Gloss to take out his calculator and determine, under the proposed zoning, the maximum number of units that could be built. The community had their calculators out and easily figured out that well over 800 dwellings and up to 996 could be built on the LMN zoned area alone. He minimized the very likely possibility of maximum development of the area to “sell” this recommendation to City Council when he stated that a “maximum of 550” units would be constructed. This is especially disconcerting when you review that the purchase contract of the Hughes property from Lennar stipulates the construction of a minimum of 600 units. Furthermore, and even more disconcerting, is the fact that CSU will gain tremendous payouts for any construction of more than 625 units, and incur monetary penalties for lesser density below 600 units. So, Mr. Gloss knowingly misled both Council and the community. Mr. Gloss has been a part of this all along in an ethically dubious role since the RFP process was undertaken, despite a recent memorandum stating that he “only consulted” on the zoning rules of the City.

While several members, especially Mayor Troxell and Mr. Gloss, stipulated that the meeting on November 5th was to determine zoning and NOT development, it is unmistakable that the zoning has everything to do with future development, as evidenced by the now-public purchase contract between Lennar and CSU. In fact, it is also well known that the proposal brought forth by the City Staff allows for the Lennar plan to continue as is for ½ of the parcel of Hughes.

The reason for the “plumb bob” dividing line along the already developed areas to the west of Overland Trail and “City Plan” that was developed AFTER the purchase contract between CSU and Lennar, (ever so conveniently) is to facilitate the maximum density, and thus financial gain, to support
CSU’s financial deficit from the new stadium. LMN, by definition, supports development parcels of 80-160 acres. Hence, anything less than 80 acres, despite the “lay of the land” of 10% mixed use housing to the west of Overland Trail, could not possibly apply given the LMN criteria.

At numerous meetings, where the Hughes Property was discussed, City employees stated they did not know the details of the purchase agreement between CSU and Lennar. Not only is it known that City Planners were involved in the process, but the purchase agreement has been made public via a CORA request. However, giving the benefit of the doubt, let us enlighten you on the highlights of the attached, redacted purchase agreement:

1. CSU’s financial gain comes in the form of an initial purchase price of $10M for the property alone. Furthermore, CSU receives $16K, for every dwelling over 625, and an additional redacted amount of money (aka, “added purchase price”) each time a dwelling is sold. This was not divulged to the community and not available until the CORA request was made and published. This serious omission about the financial details, although a private deal, constitutes a violation of good faith with the residents of Fort Collins, and a deliberate lack of transparency.

2. The purchase contract also includes a credit to Lennar from CSU of $16K for each unit less than the minimum of 625 units up to $400,000. CSU isn’t going to reduce their $10 million sale for less density.

3. CSU stated in their RFQ that one objective for development applicants was to provide for “affordable workforce housing” among other objectives involving City and community integration. However, the current Lennar proposal does not provide for either affordable or attainable housing. If CSU is so concerned about providing workforce housing, why did they NOT REQUIRE affordable housing as part of the purchase agreement? Obviously, the offer of $10 million PLUS incentives was enough to override that goal. Incidentally, housing owned by CSU on Elizabeth rents for $1000+ / month for a 1-bedroom/1-bathroom apartment. This clearly shows the glaring lack of commitment of CSU to provide affordable housing.

There is a weak and unconvincing argument being promulgated that suggests that more density = more affordability. The average home price with the current Lennar proposal is $433K. When you consider that the price per acre of Hughes property falls between $60K to $83K (depending on total versus “developable” acres of approximately 121 acres), then tack on the City building “fees” for infrastructure of up to $85/SF unit, it is impossible that any unit would fall under $300K. Not only is this NOT affordable, but it is NOT attainable by most work force employees in any industry.

When Mr. Gloss was asked by a Council member at the November 5th Council meeting what maximum density the LMN zoning would allow, he stated he didn’t have a calculator to figure it out. As the City “development consultant,” he knew the contents of the Lennar and CSU purchase contract. How does he then share to the community and Council that the development would be a “maximum of 550 units”? We don’t need a calculator, 550 IS LESS THAN 625!

The Hughes site, as described by many, is a valuable and historical part of Fort Collins. Even as you are reading this letter, this special location is undergoing vital biological and physical processes that will return it to its natural and original condition despite all that has been reaped from it. Despite the special and beloved nature of the Hughes site, the City keeps forcing only sprawling and dense housing
options upon us. So many great ideas have been presented as options, but no one is listening to those suggestions or even considering alternatives. The most reasonable and acceptable compromise was put forward by our P&Z Board, a volunteer board of our peers who was despicably thrown under the bus by Council’s decision to accept the City Staff’s proposal.

The P&Z board thoughtfully deliberated and decided upon the recommendation of a Residential Foothills District with Clustered development on the entire property. This designation would provide the best overall compromise for open space and wildlife advocates, particularly if any residential units to be constructed were limited to 1 unit per 1 acre (an acreage limitation allowed under “Clustered” zoning), and if the residential development was contiguously clustered to the eastern-most aspect of the property near Overland Trail. The rest of the property to the west could be conserved as open lands/green space with public trails and rights-of-way for hikers and cyclists. Furthermore, and most importantly, it should be noted that an RF District designation also provides for desirable uses, other than residential development, that are extremely beneficial to the overall community in Fort Collins. Just a few of those institutional, civic and public uses include urban agriculture, neighborhood parks and recreation and open lands, a wildlife education and rehabilitation center, and a small solar energy park. Many of these non-residential uses in the RF District could serve as invaluable educational and recreational opportunities for ALL residents of, and visitors to, Fort Collins.

Certainly and agreeably, Council members would like to see a resolution to the Hughes development issue. Community members would also like to move on. Countless hours have been invested by all and much frustration has been incurred. The Fort Collins community, in EVERY meeting ever held on this issue, have spoken LOUD and CLEAR that high density housing is NOT what should be developed on this prime and beloved property.

We can do SO much better than what the City Staff is recommending - dense and sprawling housing in an LMN/RF district at the base of our foothills. There is an agenda here, and we all know it. And, it is wrong.

Please STOP the VOTE! Additionally, we respectfully request that one of you initiate the second vote and support the Planning and Zoning Board’s recommendation of clustered RF on the entire Hughes parcel.

Sincerely,

PATHS of Fort Collins
Planning Actions To Transform Hughes Sustainably
November 17, 2019

Communication to City Council Members:

Ross Cunniff, Emily Gorgol, Susan Gutowsky, Julie Pignataro, Kristin Stephens, Ken Summers, and Wade Troxell

I am writing in preparation for the upcoming City Council meeting scheduled November 19, 2019 and specifically on agenda item regarding the second reading of the Hughes Re-Zoning. One cannot even begin to discuss comments in enough detail to make a point in 2 minutes and I am hopeful that you will all read my letter.

I am respectfully asking for a second vote that would rescind the initial vote from November 5, 2019 and accept the recommendation of RF / clustered zoning as put forth by the Planning and Zoning Board for the Hughes site.

As I have mentioned in commentary in previous meetings, I am very concerned about the proposed zoning to a high-density proportion for the Hughes site. I am also very concerned about the lack of transparency that has been the underlying theme of this whole charade.

First, CSU held community hearings to discuss the sale of the land and obtain community input. While OPEN SPACE was the underlying response of the community as a whole, comments were cast aside and the community heard no feedback. Meanwhile, CSU posted an RFQ soliciting buyers for the property. According to City Staff, CSU refused to discuss selling this area to the City of Fort Collins. Lennar was the offering developer. Little was known about the purchase agreement other than a sales price of $10 million. (A pretty hefty price considering City Staff feel it has little value). It was not until a CORA request of the contract was publicized and community members learned of the additional “hidden” financial incentives for CSU that would “seal the deal” for a high-density housing project. Interesting that the RFQ mentioned a plethora of objectives that were not included in Lennar’s purchase contract.

CSU requested the Hughes parcel to be placed into T-Transition and become annexed by the City. At this time, and by this request, this property and development planning became the rights of the community to comment and have input on development and zoning.

AFTER the contract negotiations were underway for the purchase of the Hughes site, along comes the City Plan to identify growth areas and “Place Types” and report that these were voted on by citizens in our community; many still do not understand what the term “Place Types” means much less what they represent in the City Plan.

More meetings and testimonies, all a charade from the perspective of many. Community members commented, gave insights and ideas, asked questions, and tried to be supportive of ANYTHING OTHER THAN HIGH DENSITY development. Then, the City Planning Dept, at a meeting in August, presented 5 development choices and asked citizens to choose between
them. ALL HOUSING DEVELOPMENTS WITH HIGH DENSITY OPTIONS. There were no choices to incorporate open space, community centers, lower density options. It was a choice between 5 evils. Not to mention, misrepresentation of the potential density of each of the 5 proposed developments to further sway choice; to collect data points to document the “community preference” for the Hughes site.

More recently, and even at the November 5th meeting, there has been “cover up” and “back tracking” by the City Planning Department. When Mr. Gloss presented his updated version of the zoning proposal of LMN/RF, he somehow included new data that he gathered from previous public criticism of his plan. In fact, for the November 5th presentation, he referred to a new air quality study, apparently from 2014 instead of the previous data reported from 1985. With this revised presentation to Council, there were several issues that needed clarification or rebuttal due to omission or inaccurate statements. One example was when Mr. Gloss stated that the maximum number of houses that would be built with the proposed plan was 550. Later, he sent out a corrected statement with “theoretical” scenarios that confirm over 1000 units as presented by the community in testimony. This was a conscious understatement in order to get Council buy-in and ratification. It is not fair that the Fort Collins community members can’t comment when these situations occur. Mr. Gloss also mentioned that there were 6 egresses out of the proposed Lennar development (many community members voiced safety concerns) however, in my review of the plan, I only see 2 egresses; one on Overland and one on Dixon. There is an area designated to the north as “future development access” which intersects private property and cannot be included as an exit/egress. In this same meeting on November 5th, there was even more citizen testimony against the City Staff proposal of LMN/RF in a 50/50 split. Three supporters (less than 10% of testimony presented) testified in support of this plan and all had financial incentives associated with the high density.

Mr. Gloss’s determination of the “lay of the land” and to justify the 50/50 split of the parcel is arbitrary and comes with purposeful intent to meet criteria of LMN for 80 to 160 acres. If the division of the property was anything less than 50% (or 80 acres), LMN zoning could not apply by definition.; another “convenience” for this plan of Hughes. Even when one looks at the map of the proposed Lennar plan, there is no comparison to the surrounding areas west of Overland Trail. This was also pointed out at the November 5th meeting by citizens.

There is no separation between the zoning and the Lennar plan on the Hughes site. They are intertwined. The City Planning Dept. has an agenda to make the project with Lennar a GO.

We have learned of hidden financial incentives; there may be more we are not aware of yet. There have been acknowledgements of “off line” communications between CSU, Lennar, and the City Planning with emails being sent out and more. There has been possible conflict of interest by some of the Council members and whether a “legal” conflict or not, there is definitely the appearance of at least “social” conflict by members that have employment affiliations with CSU. There has been misrepresentation and omission of pertinent data. There has been promises that cannot be guaranteed in many facets as well. This is WRONG.
The citizens of Fort Collins have entrusted all of you to make choices and decisions that will be in our best interests as community members of our Choice City. It is unfortunate that so many citizens have VOICED comments only to fall on deaf ears. In fact, many citizens have given up hope of any democratic process in the final zoning determination; they feel the decision has already been made at the get go. I appreciate that Council members Cunniff, Gutoswky and Pignataro are LISTENING to their constituents and understand what a rash decision today can do to the future of tomorrow.

The P & Z Board’s recommendation of RF clustered should be respected and recognized as a thoughtful and appropriate compromise between all interested parties. RF zoning will allow for some creative and community service options to be integrated without high density and all of the associated negative impacts to the area.

HEAR OUR VOICES; STOP THE VOTE AND PUT A SECOND VOTE ON THE TABLE! VOTE FOR THE PEOPLE OF FORT COLLINS AND FOR THE BEAUTY WE HAVE IN OUR FOOTHILLS. I respectfully request that you over-turn your decision to zone the Hughes site as a 50/50 split of LMN and RF clustered and instead support RF clustered for the entire parcel.

Thanks for your time and consideration. I will see you on the 19th.
Sincerely,

Tamra Meurer
Fort Collins Citizen (since 1983)
80525
From: Carroll & Jan Morony <jancar68@comcast.net>  
Sent: Monday, November 18, 2019 7:28 AM  
To: Ross Cunniff  
Subject: Hughes stadium property

Hello Ross,

We live in the Hughes stadium area and hope you will change your vote and vote in the affirmative for the Hughes stadium property zoning. We do not think that the area should be open space/natural area because we already have natural areas and parks to service our area and other areas of the city are in need of money spent to give them parks and natural areas. Does the city have the funds to develop and maintain this area as a natural area when other areas of the city should be a priority for parks development? We see a lot of "NIMBY" and "the council doesn't listen to us because the vote didn't go our way". The city needs more homes. This ordinance is much better than what was proposed by the developer. We all need to take a broader view of what's best for the city and not just for "my neighborhood".

Carroll and Jan Morony
Hi Fort Collins City Council,

I'm writing to ask you to vote "no" on the rezoning of the Hughes Stadium area, as well as any proposal to build a development there.

The property is prime Open Space and should be used for that purpose, not packed in with housing that would further degrade the surrounding Open Space, increase GHG emissions, create more air pollution, create more noise pollution, and create more traffic. Cramming dense housing in areas of town where neighbors don't want it, or where it degrades nature, is a terrible decision. Further, this proposal does zero to create more affordable housing in Fort Collins.

The biosphere around us is our life-support system – protecting the non-human world is the single biggest step we can take to ensure our own survival. Stop pounding more housing and unwanted development into Fort Collins.

Thank you,

Gary Wockner
516 N. Grant Ave.
Fort Collins, CO 80522

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Gary Wockner, PhD
Environmental Activist, Scientist, Writer
Author: "River Warrior: Fighting to Protect the World's Rivers" (2016)
Web: http://GaryWockner.com
Email: Gary@GaryWockner.com
Phone/WhatsApp: 970-218-8310
Cameron, Sylvia,

I am unable to attend tonight's meeting due to work schedule. I would like to ask a couple questions and voice my concerns which I would be hopeful you can pass along.

Question 1: Just how many people would this development add to the area?

Question 2: How much will auto traffic be increased in the area?

Question 3: Does the city plan to improve roads including adding additional traffic lanes for automobiles on Drake, Overland Trail, Mulberry St. and Possibly Elizabeth to help with congestion?

Question 4: Who is the developer and or owners of this property? I cannot see anything that gives us this information.

My concerns: I have lived in this neighborhood for over 4 decades. I have seen two lane roads reduced to one lane each way for traffic to make room for bike lanes. Adding more traffic to this area without going back to the four lanes where possible will cause congestion and a recipe for increased risk of auto/bike accidents.

Additionally, I feel that the bike lanes created on Mulberry and recently on Vine are outrageously insane. I have never seen such planning in any other city I have visited, and I have visited my share. This attempt and approach to give bicyclist wide lanes going both ways does nothing for us who rely on auto transportation. I am concerned that the city will attempt to add more bike lanes and separation which is not good for traffic. I will add that since the bike lanes on Mulberry and Vine it has doubled my time to get from Overland Trail to Shields due to increased traffic. The lanes do not line up, they are now narrow, stripping is pitiful and due to weather and people hitting some of the separation devices, they look ghetto, filthy and hideous.
I am also concerned about crime. Crime follows population and the area is already known for higher crime close to this proposed site. I feel that clustered apartments, fourplexes and such will add to the crime rates in the area.

What I feel would be more suitable for the space is guaranteed 50% open park/nature and single family homes on large lots double or triple the size of most neighborhoods. Those homes would perhaps be larger single family homes and would allow the site to be developed in a manor better suited for the site and close neighborhoods.

Please do give me answers to my questions and please let my voice be heard on this matter.

Thank you,

Gary Baumann
Hello Emily,

Sunday evenings are a good time to mop up and respond to the week's news and events. Once again, your vote regarding the Stadium development deserves a thank you. More impressive to me are your common sense comments regarding your decision and your vote. You represent me on the Council and I am grateful for your thoughtful consideration of the issues. Thanks, again.

My best,
Hermi LaPoint
Fort Collins
Begin forwarded message:

From: Melodie <melodiesue@comcast.net>
Date: November 16, 2019 at 7:16:29 PM MST
To: Wade Troxell <WTroxell@fcgov.com>
Subject: Davis, CA or Oakland??

Dear Mr. Troxell,

RE: Hughes Zoning and Development

I have lived in Quail Hollow for 15 years and along the Front Range for almost 40 years. I remember when the Rams would play at Hughes Stadium Drake (Street) would be turned into a 3-lane and police officers would manually control the traffic lights at Drake and Taft Hill. Anyone living along Drake could barely get in or out of the subdivision, turning into the shopping plaza where Safeway is located was almost impossible.

Access into the Hughes parcel is limited: there IS NO ACCESS from the West, the North, or the South. Not only would the increase of traffic drastically change the quality of life for all those who live between Overland Trail and Taft Hill but it would be catastrophic in case of a fire or flood; both of which have happened in the area of town bordered between Drake and Prospect. I remember the Spring Creek flood of 1997 that took lives of many trapped in the trailer park (this parcel sits directly below Horsetooth Dam). I also remember watching the flames of the High Park Fire and the smaller fires later that year on the West side of Horsetooth Reservoir. Fires and floods DO happen here! Paradise, CA ignored repeated warnings to city planners about exit routes and the geography that contributed to over 85 deaths: "the greatest risk to the ridge communities is from an east wind driven fire that originates above the communities and blows downhill through developed areas." In combination with a reduced number of travel lanes to escape. https://www.latimes.com/local/california/la-me-camp-fire-deathtrap-20181230-story.html

The Hughes site is land-locked and everyone living there will have to get in their
cars to get gas or groceries which, even if the roads were widened, will spew additional carbon exhaust and that would just sit in that geographical pocket as a result of an inversion created by the topography. Just last week as I was returning from Cheyenne, I looked to the West as I crested I-25 South of Wellington and I saw a brownish-blue cloud hanging over West Fort Collins!!

Many residents of Fort Collins and visitors enjoy the trails for hiking and biking along that area that will most definitely be adversely impacted by a high-density housing project like the one proposed by Lennar, adding an additional 1400 cars (2 per 700 units). Lennar doesn't know or care about our community. Hughes parcel was gifted to CSU and due to its location at the base of Horsetooth is truly a gem. This is NOT just another cornfield. My question is, do you care about our community?

I remember visiting Davis, CA when my son was in graduate school (UC Davis, another land grant university) and was so impressed because they have been a good steward with their land use and planning. The town is still a lovely place to visit; not unlike Fort Collins.

Please don’t sell our community to the highest bidder! Choose wisely for our community and for the generations to come. As elected public servants your job is represent and honor the will of the people, NOT kowtowing to the whims of CSU! Also, understand that the will of the people will be reflected at the ballot box during the next election cycle.

Regards,

Melodie Sue Nicholas
As Climate Risk Grows, Cities Test a Tough Strategy: Saying ‘No’ to Developers

By Christopher Flavelle and John Schwartz

Nov. 19, 2019  Updated 9:42 a.m. ET

VIRGINIA BEACH — Glimpsed from a kayak on West Neck Creek, this swampy piece of land, a pocket of red maple and loblolly pine tucked behind growing subdivisions, doesn’t look like the stuff of existential debate.

But this is where Virginia Beach, squeezed between the clamor for new housing and the relentlessness of flooding worsened by climate change, decided to draw its line in the mud.

The city last year became one of a small but growing number of communities willing to say no to developers — despite their political and economic clout — when it rejected a proposal to build a few dozen homes on this soggy parcel of 50 acres, arguing that those homes would be unsafe. The developers sued, accusing officials of making their project a scapegoat as voters clamored for action after disastrous flooding.

This past May, a judge ruled that Virginia Beach was within its rights to stop the development. The city’s experience could become a harbinger for others nationwide.

“It’s a confrontation with reality,” Bobby Dyer, Virginia Beach’s mayor, said in an interview in his office. “Not everybody’s going to be happy.”

As the Trump administration reverses efforts to fight global warming, local officials around the country are forced to grapple with more intense flooding, hurricanes, wildfires and other disasters. That pressure is colliding with development, which provides jobs, homes and taxes but which also can increase the future risk of disaster as construction spreads into floodplains or forests that are prone to calamity.

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The outcome of that battle will shape Americans’ vulnerability to climate change for

To: City Council Members  
FROM: Todd & Martha Zook  
DATE: November 18, 2019  
RE: Rezoning of the Old Hughes Site

Ross Cunniff, Emily Gorgol, Susan Gutowsky, Julie Pignataro, Kristin Stephens, Ken Summers, and Wade Troxell

First of all, thank you to Councilmembers Ross Cunniff, Susan Gutowsky and Julie Pignataro for listening to the citizens of Fort Collins in voting against the proposed zoning submitted by the City Planning Department on November 5, 2019.

To the Mayor and other council members, I am asking that you reconsider and rescind your vote made on November 5, 2019.

Ms. Emily Gorgol: when you were interviewed by the Coloradoan and was asked: Why are you running for City Council? You said and I quote “I have spent many years working to better our community, and I feel strongly that I can continue to help make Fort Collins more open, accessible, and affordable for all by bringing a voice of inclusive representation to City Hall.”

Where is that voice now? You promised the people who got you in that seat more open space, accessibility and affordability.

You are sacrificing the Citizens of Fort Collins with a Lie of affordable housing. You are maximizing the profit at the cost of the citizens for FAKE Promises. No fast-growing City has attainable housing and you cannot build your way out of affordable housing.

You are doing all this damage for the Fake promise of attainable units that will never happen.

Kristin, you as well told the Coloradoan that you were rerunning to continue the work you started on ...affordable and attainable housing, and maintaining our quality of life.

Again, I need to ask was this a lie, a fake promise to the Citizens of Fort Collins to get you a seat at City Council?

What happened with all the talk about CSU creating “work-force housing”, affordable, and attainable? With the salary most CSU employees make, what you approved on November 5th, that will never happen.

In all the meetings, open forum, etc., the citizens of Fort Collins made it very loud and clear they did not want to see clustered/high density housing. They want to keep that area as Open Space. You can do right for the citizens of Fort Collins by changing your vote and say NO to Lennar!

Sincerely,

Martha and Todd Zook
mzook.colorado@gmail.com
To: City Council Members
FROM: Todd & Martha Zook
DATE: November 18, 2019
RE: Rezoning of the Old Hughes Site

Ross Cunniff, Emily Gorgol, Susan Gutowsky, Julie Pignataro, Kristin Stephens, Ken Summers, and Wade Troxell

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Sincerely,

Martha and Todd Zook
mzook.colorado@gmail.com

Attached please find my signed letter.
Dear Ms. Gorgol,

Thanks for serving on FC City Council! This message is to bring to your attention something that I observed at the last Council meeting. Although I am not super active at this moment, I am a long time League of Women Voters member and have served in various capacities in the League, including the Observer Corps. Since my husband has been on the P and Z Board for 5 years now, I have been able to learn and observe a lot more about how the Fort Collins city planning staff, developers, the P and Z Board, and City Council interact. I have lived in Fort Collins since 1979, have two degrees from CSU, and have participated in many non-profit and city sponsored projects over many years.

I have been particularly interested in the Hughes Stadium site redevelopment as many citizens are, because the foothills area is fragile and irreplaceable. In many ways that area, near the “A” best represents the unique identity of Fort Collins. At the same time, I truly see the need for real affordable housing in this city. Many of our friends have grown children who cannot afford to move here and have bought houses in Wellington, Weld County, and Loveland. Your commitment to this issue is easy to observe and greatly appreciated. Although Susan Gutowsky is my Council Representative, I am specifically speaking about your interaction with the city staff at the last Council meeting.

Regarding the Hughes site, I don’t believe the Council was well served by the city staff when you asked questions about the possibility of zoning the entire area RF. This zoning does not require low density, but leaves room for dense clusters of affordable housing AND open space. Any density could be approved through the additional permitted use or modification standard process, not just the lowest density. The city staff did not explain that at the meeting. For example, a developer could propose dense affordable housing on one end of the entire property and keep most of the units they proposed, if those were certified affordable.

I urge you and the City Council to drive affordable housing proposals by direct
communication with the city planning staff. They communicate with developers and could encourage proposals that fit the desires and needs of our entire city, not just realtors and developers. They should be better at explaining options to you and to our citizens about what is really possible. Open space and affordable housing is possible, if we want it. And I believe many of us do. We want to see more young families in our town, not just white high income retirees.

With appreciation,

Pam Turner
970-420-4891
1104 Williams Street
Fort Collins, CO 80524

--

Pamela A. Turner
970-420-4891
Dear Councilwoman Julie Pignataro:

Please count me among those who treasure the remaining open spaces on the fringes of Fort Collins. Placing a high-density development against the foothills would be destructive to the environment and place a burden on older, established neighborhoods along Overland Trail and West Drake.

My husband and I have lived in and close to Fort Collins since we were students, fifty years ago. Recent growth has reduced our quality of life considerably (traffic, noise, light pollution, shockingly high tax increases). We look to elected officials to address the problems inherent in policies that encourage a demand for resources -- notably water and space -- that continues to grow exponentially.

Thank you for your efforts so far.

Gratefully:

Donna Braginetz
3817 N. County Rd. 25E
Bellvue, CO 80512
Good morning, Council Member Cunniff;

a belated 'thank you' for your recent vote on the old Hughes Stadium site. An article to boost you, and bolster your efforts: 

To lose an opportunity to protect and preserve one of the last pieces of land that the old Hughes site represents, a unique ecosystem, simply because an out of state developer with deep pockets wants in on our 'can't miss' housing dilemma, would be one of the most shortsighted decisions a City Council elected by the citizens of Fort Collins could make.

Make it a great day.

Best regards,

David Roy
2016 Evergreen Court
Fort Collins CO 80521
(970) 493-9201
From: Freymuth, Valerie <valerie.freymuth@colostate.edu>
Sent: Tuesday, November 19, 2019 9:25 AM
To: Ross Cunniff <rcunniff@fcgov.com>
Subject: Another voice against Hughes Development

Mr. Cunniff,
Thank you for your vote against rezoning the Hughes site at the City Council meeting of November 5.

I am a resident of west Fort Collins (Elizabeth and Overland.)

I am disappointed that I cannot attend the meeting tonight to add my voice to the many citizens there, again expressing their desire to maintain this area of natural beauty and space in our ever more crowded city.

My experience in the past has been that once the developer get approval they cram the maximum number of houses allowed on the property, no matter the effect it will have on surrounding areas. The citizens of Fort Collins do not trust CSU and I believe there is also some question as to the reputation of Lennar as well. I am afraid that whatever is the maximum allowed under zoning laws, that number will be built on that space- ruining a treasure that can never be recovered.

Please motion for a turnover of the previous vote and please encourage other members of the council to think further than tax revenue.

Valerie Freymuth
3314 W Elizabeth St
970-215-6519
From: Renee Walkup <walkup@salespeak.com>
Sent: Tuesday, November 19, 2019 8:03 AM
To: Wade Troxell; Kristin Stephens
Cc: Darin Atteberry; Ross Cunniff; Ken Summers; Emily Gorgol; Julie Pignataro; Susan Gutowsky
Subject: Hughes

Good Morning.
Thank you for all the work you do on behalf of the community. I can’t imagine the difficult and challenging issues that you are dealing with on a daily basis.

As a matter of record, I feel the need to tell you that I have not been involved in any of the recent ethics accusation letters or emails. As you’ve heard me say numerous times, I love this City.

My association with PATHS has decreased as the passions among some involved have accelerated. I want you to be aware of that fact, although I will be at Council meeting tonight expressing my continued concerns regarding a large development proposal at Hughes.

Thank you,
Renee Walkup
Dear Honorable Mayor and Fort Collins City Council

Please do not approve the zoning designation for the Hughes Stadium Property tonight. It is my understanding that Colorado State University does not have to follow your zoning recommendation anyway.

This property is in the federally designated wolf conservation area. I have attached a map showing that the area is bordered on the north by the state line, on the east by Interstate 25, on the south by Interstate 70 and on the west by a line from Craig, Colorado south to Interstate 70.

We need to keep this open space between the foothills and the City Fort Collins and Colorado State University. The wolves are already here in Colorado and Wolves are the West.

It is my understanding that either the City of Fort Collins or Larimer County has the money to buy this property for open space. This should actually not be necessary. Colorado State University should rise to the occasion and keep this property as open space. CSU claims to be a leader in environmental protection. They also say they want to be good neighbors to the residents of Fort Collins. We gave in to their new on-campus football stadium and the traffic and parking problems it has caused all for a football program that cannot compete at the level of a team from a college of this size. This ten million dollar sale to Lennar will not fix this embarrassing situation. It will take much more money than that.

Many people are in love with the West and would love to have a chance to view the wolves in a natural area that is not 50 degrees below zero in the winter like Yellowstone National Park. Please support the wolves and give them a chance to show us what the West is all about.

PLEASE VOTE NO TONIGHT. IT IS THE LEAST WE CAN DO.

Sincerely
Linda Hall
Federal government quietly establishes wolf conservation area that includes Grand County

Acting interior secretary announces plans to remove gray wolf from endangered species list

News | March 12, 2019

While sightings of the apex predator remain few and far between, the ongoing presence of the endangered species within the state's borders prompted the federal government to establish a wolf conservation area in north-central Colorado, including Grand County in late 2016.

Since at least 2004, a small number of solitary gray wolves have migrated into Colorado.

While sightings of the apex predator remain few and far between, the ongoing presence of the endangered species within the state's borders prompted the federal government to establish a wolf conservation area in north-central Colorado, including Grand County in late 2016.

The significance of the conservation area, however, only really impacts the federal agencies that manage wildlife and wildlife conflicts by restricting the methods they can use to mitigate conflicts. Other federal protections remain in place that prohibit anybody from endangering or killing wolves in the United States, with the exception of in Alaska and Hawaii.

Throughout Grand County, few local officials were aware of the existence of the wolf conservation area. Local government officials said they were still searching for any correspondence they had received from the federal government regarding the establishment of the conservation area as of Monday afternoon.

Grand County Commissioner Rich Cimino said he was not personally aware of the existence of the conservation area. A regional spokesperson for Colorado Parks and Wildlife said he also was not directly aware of the conservation area, though Brad Petch, senior wildlife biologist for the state's northwest region, confirmed that he and other state officials were aware of the conversations surrounding the establishment of the conservation area by the federal government.

The wolf conservation area, which formally went into effect in November 2016, is most significant to the Wildlife Services unit of the Animal and Plant Health Inspection Service, or APHIS, which is part of the larger U.S. Department of Agriculture. Members of the Wildlife Services unit of APHIS are the federal employees primarily tasked with the protection of resources, such as agricultural resources, when they are negatively impacted by wildlife conflicts.

“We have a history of wolves entering Colorado throughout this area,” explained Martin Lowney, state director for APHIS’s Wildlife Services in Colorado. “That is why they created this wolf conservation area. They are going the extra mile to protect any wolves that do enter Colorado.”

According to Lowney, the establishment of the wolf conservation area pertains to the Wildlife Services only.
Wildlife Services employees resolve wildlife conflicts with livestock and wildlife, between livestock and wildlife, through a variety of means. To resolve such conflicts, Wildlife Services use a range of methods, including guard dogs, predator control, and the use of mechanical deterrents, traps, and tranquilizer darts.

However, the establishment of the wolf conservation area officially restricts the methods Wildlife Services employees can use in the area because of the possibility that those methods could harm or kill a wolf.

Federal employees, and the general public, are already restricted from killing, trapping or harming wolves in Colorado due to their designation as an endangered species.

The establishment of the wolf conservation area in north-central Colorado is an acknowledgement by the federal government that wolves have recently been found in the area. And that additional steps should be taken to ensure that federal employees do not violate the Endangered Species Act while attempting to mitigate conflicts between livestock and other predators, such as coyotes.

The wolf conservation area prohibits Wildlife Services personnel from using cyanide traps or neck snares when mitigating predator and livestock conflicts within the specified area. It further requires that all foot-hold traps and snares be checked at least once a day in areas known to be occupied by gray wolves. The conservation area does allow for the use of break-away snares, though, and allows for the continued use of aerial shooting of predators by specialists who receive additional training to ensure they can distinguish between wolves and coyotes.

Lowney said Wildlife Services has historically not used cyanide traps within the conservation area.

“This says we are not to use any methods that would outright kill a wolf,” he said. “But we don’t use them there, anyhow.”

The few available methods for mitigating wildlife and livestock conflicts include the use of guard dogs, a heavier human presence around livestock to deter wolf attacks or the use of fladery, which is erecting temporary perimeter fences that have brightly colored plastic flags, according to Lowney. It’s also recommended to move livestock away from areas where wolves are known to exist.

The wolf conservation area occupies a significant swath of land, stretching from Interstate 25 on the east side of the state, to Craig on the west and from the Wyoming border on the north to Interstate 70 on the south.

Jennifer Strickland, spokesperson for the U.S. Fish and Wildlife Service, which manages endangered species for the federal government, said the conservation area matches an easily defined area where wolves have been observed in previous years. It includes all of Grand, Jackson, Gilpin and Boulder counties and portions of Moffat, Routt, Eagle, Summit, Clear Creek, Jefferson, Adams and Larimer counties.

Wolves are currently listed as an endangered species throughout the Lower 48 states, but are considered threatened in Minnesota. Though that could change as the Trump administration looks to remove the species from the endangered species list, according to an announcement made March 6 by Acting U.S. Secretary of the Interior David Bernhardt.
Hughes General Public Listening Session – Feedback by Attendees

October 18, 2017, 6-8 p.m.
Drake Centre; Fort Collins, CO

CSU and CAA ICON offered five “listening” stations as described below where attendees could ask questions and provide their feedback. Each station was manned by CSU and/or CAA ICON representatives. The below are 200 comments, questions and concerns which were logged by station notetakers or written by attendees on comment boards.

Redevelopment Process Station

1. Build High Density Affordable Housing
2. Will the Public Open Land remain the same?
3. Parking Garage/Shared parking for access
4. Medium to Higher Density Affordable Housing/Housing of some sort
5. What are the possibilities so far regarding redevelopment?
6. Are you putting affordable housing/apartments on the site?
   a. Answer: Nothing has been decided as of yet.
7. Where do investors come into the process?
8. Work with Habitat for Humanity for a portion of the property to create affordable housing
9. Has developer been selected?
   a. Answer: No
10. Where are these and other comments/feedback going?
    a. Answer: We are collecting feedback and will eventually share it on the website.
11. Keep it for open space
12. Keep some of it for open space and views
13. Concert Venue
14. Will you be soliciting different concept plans from developers?
15. What is the timeline?
16. Who owns the property?
   a. Answer: The Board of Governors
17. Mountain Bike Park (like Valmont in Boulder)
18. How is the Hughes property zoned?
19. How many acres is the property?
   a. Answer: Approx. 160 Acres
20. Is the development going to be owned by CSU or privately owned?
   a. Answer: Privately Owned
21. Capitalize on the asset of the property
22. Something where you can remember Hughes
23. Something more than just housing
24. Maximize the asset for CSU
25. Can we keep the Frisbee Golf Course?
26. Emphasize open space
27. Connect Spring Creek Trail to Maxwell to Poudre
28. Private individuals purchase and donate to the city as Open Space
29. Ethics of sustainability integral to the ongoing project
30. Bike park (see Valmont Park in Boulder)
31. If Fort Collins grows, we need to preserve open and rec space to support it
32. “Outdoor lifestyle” = reason for FC desirable place to live INCLUDING attracting top CSU faculty
33. A mountain bike park would provide recreational opportunities for FC residents AND visitors.
   Progressive, forward thinking!
   a. Agree! Progressive and forward thinking is key. Affordable housing is not for this space – prime real estate
34. Open space/park/trails
35. I would like to see the history of the stadium maintained. I like the idea of an outdoor adventure park for CSU students and the Ft. Collins community alike. There could be a sports complex, boat and equipment rental, and various summer camps to drive in revenue for the university as well as climbing walls, sledding hills, and other activities that bring mountain experiences closer to home
36. How does this impact the legacy of CSU and the City of Fort Collins? People come to school or move here for our “lifestyle” and access to open space. There is plenty of area in F.C. to develop, but not many unique areas like this to preserve as open space
   a. AMEN!

Existing Site Station

1. Could expand parking area for Maxwell (might not be part of the property)
2. Would be nice to create a safe and fun sledding area for kids
3. Turn into huge construction laboratory to design housing of next century. CSU has several relevant depts (construction management, engineering, interior design, landscape architecture). City has housing needs (students, seniors, etc.). This land could be used to develop new designs, train students for the new century’s needs, give students the opportunity to design for new century, train a new generation of skilled craftsmen, and provide needed housing
4. Keep Frisbee golf course – does get used and its presence is appreciated
5. Concerned about any development abutting the mountains – issue for fire spread
6. Concerned about traffic esp. at the Drake and Overland intersection
7. Concerned about another large track of houses with nothing else to offer – wouldn’t even mind a mixed use commercial/residential development
8. Love to see mixed use development of commercial and residential – not high density
9. Suggest zero energy homes and buildings
10. Why the rush to sell and get rid of the property?
11. Is there a fiduciary duty to our citizens for open space?
12. How large is the land
13. 160 acres
14. Concerned about traffic if the area gets developed
15. Keep the Frisbee golf course
16. Concerned about traffic esp. at Drake and Taft – currently not a lot feeding in from Overland Trail. Worried especially with other development already being built
17. Keep detention pond
18. County road heavily used by runners and bikers for hiking, running, and getting to Horsetooth and trails in Maxwell area
19. Not adequate parking along Overland
20. Overland needs to be expanded anyway
21. Intersection at Drake and Overland is archaic – could be redesigned
22. Concerns about development of land and height of structures effecting leisure and enjoyment of the outdoors
23. With continued increasing land value in Fort Collins – possibly very valuable land in the future?
24. Why isn’t CSU looking to expand the equine center
25. Why turn the land over now when it could be used to expand vet program (one of the best in the country)
26. How much does it cost to hold lease of land – building housing now seems short sited
27. What/how will development impact trail use for hikers and bikers – safety issue
28. CSU is an agricultural school – losing sight of that by developing that open space
29. If they’re going to take away this open space are they going to offset it with other open space?
30. Recommend that CSU and the city collaborate to keep costs down on affordable housing by selling some parcels of land at under-appraised value and the city reducing costs for utilities and permits
31. Recommend a variety of different housing types to meet the needs for affordable housing i.e. clusters of duplex houses, very small one-story houses, and stacked apartments for rent
32. Build a second unit with Fort Collins housing authority replicating the big complex on S. College Ave ("Housing First" – housing for homeless families and managed by housing authority) including all the amenities such as case managers, advising, etc.
33. More trees and greenery
34. Preserve the view
35. Preserve the site and turn it into an alternative sports venue – world class track racing venue (cycling). Use the budge you have to convert it instead of demolishing it.
36. Convert Hughes Stadium into a giant terraced horticultural/botanical research greenhouse with a bowl shaped, rain capturing fabric translucent lid. The bowl shaped interior would have varied cooler and warmer growing zones depending on their elevation from the floor. Snow will melt on contact, and rain would be collected at the bottom and drain thru to a green machine. People will come to see this for sure – the world’s first stadium converted to a botanical garden!!! This idea comes from my brother, a celebrated architect. He has done worldwide projects. He happens to be Fort Collins based. He developed Block #1 and helped with 5 star city building. Currently working on confluence project in Old Town.
37. I would like something innovative and unique to Fort Collins. No simply another densely packed area of large houses. Combine with ample open space possible mixed use, other creative ideas. We don’t simply need more boredom and traffic on the west side.
38. Agree!
39. Me too!
40. I would very much like to preserve the trails going up behind Hughes to the open spaces. If this property is sold and developed, in a year this access will disappear – this area is heavily used by bikers, runners, and walkers. Doing mixed use would be ideal – recreation, horticulture, creative community gathering, etc. use would be ideal
41. Our own Red Rocks type area would be perfect and what we deserve!!!
42. Sorry...no!! We don't need a Red Rocks...we have a $220 million stadium!! We need AFFORDABLE HOUSING.
43. Let’s not lose sight of the fact this property is directly beneath one of the Horsetooth reservoir dams – potential safety consideration for only residential development
44. Also high density of wild life in this area that would be impacted by further development, not to mention fire hazard
45. Convert to pumped-storage hydropower (renewable energy): requires Hughes for storage – remaining lands use for 2nd Olympic training park or supplemental terraced ‘grow’ facility (legal cannabis) – pay of bonds in 4 months – Adam P. Million
46. Mixed use – open space/recreation; housing, including “housing first” units for homeless families/individuals; below market (housing authority type) apts/condos (not prices “beginning in the low 300s) for working people that support all of us who live here
47. Please be mindful to keep connections to open space and Horsetooth intact with appropriate zoning and density to keep gradient to open space healthy.
48. We can and should build affordable housing in other areas of the city. Open space near Horsetooth is limited and decreasing. This is an opportunity to offer the citizens of this community increased recreational/outdoor/natural use of beautiful land. Keep it recreational
49. Re: above comment: I don’t think we can build affordable housing in other areas of the city. There is just not available sites elsewhere
50. I would like to see something new and different, aside from housing and land conservation! The space I unique but also next to the electrical center, mountains, and my house. I run up the trails and want something worthwhile!!! CSU housing does not make sense. DO IT!
51. Please consider making it into a park which would include grass sports fields, trails, a bike park, open space. We need more open space to absorb carbon emissions and give recreational opportunities and preserve wild life habitat
52. We don’t need brightly lit (reference to grass sports fields above). Night time darkness is GOOD!

**Land Use Context Station:**

1. Affordable housing either for CSU-related or general public
2. Need affordable housing; can CSU include non-profits in RFQ process, so development fees can be reduced?
3. Tiny house community (500-1000SF small homes and micros homes)
   a. Comment stating “are not affordable”!
4. LEED ND (Neighborhood Development) Certified
5. Height restriction on buildings
6. Please no commercial
7. Expand Maxwell parking
8. We could think (not exclusively) of public park or a “children’s” park
   a. This won’t stop other plans, necessarily.
   b. Most important: A creative park/space for children. Would connect us to the future and next generation!
9. Wouldn’t mind a mix of open space/mixed use development to break monotony of west side. Wouldn’t mind some commercial integrated with housing
10. A mass of dense rooftops would be detrimental to the premier foothills property
11. Preserving open space, recreational areas and wildlife habitat is critical as areas near Hughes are being developed
a. I agree (3x)
12. If housing is developed, hope there is some affordable housing for CSU employees
13. How would development of property affect adjacent natural areas, including access points (human vs. wildlife access) and G.A.P. (continuity/contiguous/pathway) issues?
14. Expand Maxwell parking and trail system
15. If there is development for housing – mixed use, different sizes and densities.
16. Continued access to Maxwell is very important for neighbors
17. Tiny affordable homes
   a. I agree.
18. Expand Maxwell wilderness area – we need dark space!
   a. Yes!
19. Desire open space to keep overland biker safety
20. Park multiuse would be viable option
21. Horse park in Northern Colorado to serve Wyoming/Fort Collins/Greeley for Eng/Western competitions and education
22. Municipal garden/farm for example: Jessup Farm, bike/family friendly
23. Is there any way to connect CDC/Infectious Disease Campus Section to Stadium Property to develop large employment center for drug/disease research?
24. Good opportunity to provide land use that would absorb carbon emissions rather than cost $ to build infrastructure, pavement. Consider renewable energy for part of the space
25. Does the school district have a role in determining whether they have capacity for the number of students that would need to be served in a new development? (In addition to those that will come from the new development at the corner of Drake and Overland?)
   a. Great concern!
26. NO retail near foothills, traffic and lights after dark – NOT wanted!!
   a. Agree!!
27. Need integrated bicycle and pedestrian facilities: paths/walkways connecting to existing trails to the west. Integrated recreational amenities like cycle cross course, crit. course, pump track, ...
28. Keep the space open, I’m concerned if we turn the land into affordable housing this doesn’t solve our housing problem. It’s only a Band-Aid to our current problem. Plus, we’re already having issues over water rights in FoCo.

Community Needs & Values Station:

1. Keep the views of the foothills
2. Integrated retail and residential would be okay if done tastefully. Do not want subsidized low income housing – too much crime in area already. Sorry.
3. Should be like Red Rocks kind of area
4. Would like it to stay natural, but single family housing would be more appropriate than affordable housing
5. Concern with far more traffic
6. It’s not easy to get around without a vehicle near this property
7. Are there other areas that make more sense for affordable housing that is more convenient?
8. Likes that it’s so open and nothing is really on the west side
9. University should retain control/ownership of the property no matter what is done with it (all of it can be done.) Concern that the space will be needed long-term for the university as it expands.
10. Keep Fort Collins unique, not just build home – I agree
11. Open space is #1 in terms of values – ideal opportunity for CSU to walk-the-walk of environmentalism
12. Would like to see some of the property set aside for affordable housing (not market price) – even housing given to staff, students, employees (lowest owners.) Could alleviate this city concern.
13. Housing for the homeless – a portion of the property
14. “Housing First”
15. No “free” or “given” housing – not sustainable and will encourage more movement to Fort Collins
16. Beautiful land/property – already tree there – keep that value added
17. Impact on schools – where will kids go to school in this area if more development is added?
   a. I agree
   b. (Redistricting?) I agree
18. Mixed development and recreational sports + health activities – integrate bike, paths and connectivity to the paths that go west. From a developer perspective – mixing can be really good.
19. Nonprofits and developers partner in RFQ/RFP process to ensued reduced city fees for development
20. Opposed to retail and commercial
21. No more bright lights at night!
22. Expand Maxwell parking area, county road is access for bikes and pedestrians
23. Cap the height of development (no 6-8 story buildings)
24. Keep detention pond for flood control
25. Open to low cost housing (Low density – done properly)
26. Higher density that backs up to the other higher density makes a buffer with what’s already there
27. Open space is good, such as with Frisbee golf
28. It’s okay to have some retail – community focused retail, so people don’t always have to drive – can walk/bike to it.
29. Consider traffic on Drake due to future developments, please!
30. Is there a “Land Swap” or other opportunity between CSU and City of Fort Collins?
31. Is the land suitable for construction?
   a. Geotech reports?
   b. Soil reports?
32. Support annexation → mitigate potential fire threat
33. Will community be a part of selection committee/process?
34. Will there be transparency with where money goes with sale of property?
35. Adequate parking requirements
36. What is “GMA” – Growth Management Area?
37. Encourage “smaller” housing (1200 sq. ft.) – a smaller footprint – more efficient, “innovative” housing (zero energy use, solar, eco)
   a. Or 600-750 sq. ft. for a single person or person with a child
38. Provide public access paths to the open spaces if there is development
39. Open spaces, views and recreation are the most important community values.
   a. I agree.
40. Plenty of other spaces for affordable housing out by I-25 – don’t get rid of existing open spaces
41. Some of the land (maybe 10-15 acres) could be used as “experiment” or “research” housing
   a. A large organization (BRE TRUST) in London recently asked I.B.E. if we would consider a research housing development, funded by industry, in Fort Collins!
42. If we miss this opportunity, the loss will be immeasurable – opportunity for discreet segments, some for purchase, others open space/parks for children, different uses, some for affordable rent housing.
43. Balance need for food related retail in this part of town with congestion that heavy retail brings so near to open space.
44. Small grocery store (with 3 types of laundry detergent instead of 27)
45. Need to provide bike trail link between Spring Canyon Park and extend north to the Poudre.
   a. I agree.
46. Wouldn’t mind retail if integrated into neighborhood. No 7-Elevens or Fast Food.
   a. I agree.
47. More Trees.
   a. I agree.
48. Homes that are affordable for “regular” people too – not just limited to low income and homeless for qualification
49. Maintain:
   a. Biker Safety
   b. Egress and wildlife to trails
50. Farm use and park use
51. Water concern with 600-800 homes
   a. Doesn’t solve our housing issues!
52. Access through 168 acres to trails; multiuse and horse, pedestrian, bike friendly
53. Agriculture Learning Center

Traffic, Multimodal Access Station:

1. More housing = more traffic = more people moving here = more business = 😊
   A mix of outdoor recreational activity areas interspersed would be nice to get people off their computers and outside. Fort Collins just came in 1st in outdoor encouragement opportunities for citizens.
2. Disagree with the above. People will move here... always have, probably always will... the choice becomes how the area will develop (not if!) and how will people be encouraged to enjoy the wonderful environment here.
3. Connect to public transit in more meaningful way – none of the most obvious uses will reduce traffic congestion without transit solutions. East to west to Max line.
4. Agree with third point. Move away from cars/parking and toward public transportation.
5. Second needing connection to public transit! Hopefully some affordable housing will be developed & families will need bus line transportation.

6. To move more people from property to downtown, complete overland as 4 lane as in City plan and connect to larger east/west roads from Vine to Drake. Look for new bypass route for north circle of city.

7. Can City purchase property?

8. Can group of alumni purchase property?
   - As a non-profit, etc.

9. Like others concerned about the traffic with more cars on the road with runners and bikers it’s already becoming more and more unsafe to run along the roads.

10. What is a good solution for the traffic at the corner of Drake and Overland trail

11. Traffic, traffic, traffic, how to handle?

12. Need better transit on west side of town that connects to city center

13. Improve intersection of Drake & Overland.

14. Agree with improving intersection of Drake & Overland – Roundabout?

15. Roundabouts at Prospect and Cedarwood/Hampshire for traffic calming

16. Overland Trail needs an overhaul to accommodate more development (honestly it needs it already). Would love to see an east – west Max line from CSU to O.T. and then down to Hughes property, plus expanded/safer bike ways.

17. Concerns about too much traffic on O.T. (@ capacity now)

18. This concern goes away with any future development as roads and intersections are relatively easy to redesign and incorporate into development plans.

19. Trail concerns

20. Bicycle facilities

21. Recreational facilities as part of Development – Pump track, cycle cross course

22. Support bicycle, pedestrian, transit on Overland Trail

23. If housing, where will children go to school? – Elementary schools full

24. Concern about traffic load at intersection of Drake & Overland – another housing development currently underway

25. Dixon Canyon Road sees high volume of bikes and runners and heavy use for parking by those accessing Horsetooth, Maxwell & Pine Ridge

26. Concern about traffic on Drake – other development underway already

27. Concern about traffic on Prospect

28. Would be ideal to have bike path going north from Spring Canyon to Poudre

29. If higher-density housing, make sure there’s enough parking so it doesn’t spill over into neighborhood

30. How will this affect Taft Hill Rd.?

Additional: The following concept for a cycling and fitness theme park was shared by an attendee:

What if a visionary developer wanted to create something unique located in a world class city?

Imagine the

* _______ Cell Phone Co. Kids Bike Safety Town
* _______ GPS Co. paved Crit/Skate/Ski Course
* _______ Broadband Co. MTB Courses
* _______ Sporting Goods Co. CrossCourse
* _______ Energy Bar Co. BMX Course
* _______ Bike Components Co. Trials Course
* Energy Drink Co. Fitness Center
* Innovative Toy Co. Playground
* BikeToolCo.free(self-help)shop
* Grocery Co. Healthy Food Court
* Bike/Sports Equipment Co. Mall
* BrewingCo.Velodrome/Concert
* Amphitheatre with Classrooms or Gym under the stands

JUST fill in the blanks with your favorite brands (with $$$)

"AT THE" *Fort Collins (or Colorado, or NoCo, or Foothills, or Rocky Mountain, or Northern Colorado) (*circle one) CYCLING AND FITNESS PARK

Sustainability and Innovation at every level is essential! Think THEME PARK based public (CSU, Front Range Community College, PSD, City of FC, Larimer County, State of CO) private (food, beverage, merchandise, and naming sponsors) partnership with facilities AND programming for affordable housing, education, fitness and recreation.

Add a Mixed Use Private RE Development to include:
Affordable Loft Condos and Apartments, plus commercial business and professional offices above a healthy retail grocer, bike, sportswear
University, Community College, K-12, and Private Industry Classroom, Lab, and Field Courses that relate to the disciplines and passions supported by the Center
An auto fuel and recharge station.
Cooperative Relationships with Downtown, Midtown, and Uptown private convention and lodging businesses public transportation connections, including bikeshare.
This becomes: THE LIFECYCLE CENTER
Hughes Neighborhood Listening Session – Feedback by Attendees

September 20, 2017, 6-8 p.m.
Drake Centre; Fort Collins, CO

CSU and CAA ICON offered five “listening” stations as described below where attendees could ask questions and provide their feedback. Each station was manned by CSU and/or CAA ICON representatives. The below are nearly 400 comments, questions and concerns which were logged by station notetakers or written by attendees on comment boards.

Redevelopment Process Station

1. Requested that all boards on display at meeting be posted online for reference.
2. Does CSU/City of FC have any idea of timeline for Annexation?
3. Do not annex property. Low cost housing is more affordable if the property is left within the county.
4. Imperative that the property go through the Annexation and P&Z Process.
5. Recommends emphasis on recreational development
6. Recommends that the public be provided the selection criteria for the future developer.
7. Work with Great Outdoors Colorado, City of Fort Collins, Loveland, and Larimer County to preserve as open space and Multiuse recreational.
8. No Housing
9. No Apartment Buildings
10. Preserve Existing Landscape
11. No Development – Leave in County
12. No Low-income housing
13. Hughes is last piece of open space in Fort Collins. Leave as Open Space
14. Develop into Music Venue
15. Leave Open
16. Emphasis on recreation
17. Is there a projected timeline for the overall Development?
18. If Developed – Prefer Mix Use
19. Festival Site/ Park and Ride
20. Be clear about potential interests. Transparency.
21. Prefer Small Housing Development
22. Site to be utilized as Park and Ride
23. CSU/City to provide feasibility study to develop the property based on the case study of “The Eden Project”.
24. Leave as Open Space/Recreational
25. Can you be denied Annexation?
26. What are the city’s boundaries? At what point can they no longer annex property?
27. Are their examples of other projects within the city that have recently been annexed?
28. You’ve already lied to us to get us here to “listen” to us. You’ve already make up your mind to develop. This isn’t about listening to us. It’s you (CSU) telling us what you’ve already decided. It’s going to hurt Fort Collins, wildlife, and people to develop that land and opens
up our foothills for more housing. You pay for it. Raise your own money. No one wins again, but CSU.

29. This is a very rare property – Keep it for recreation and nature. We don’t need more housing up against the foothills.

30. Please keep this open space or recreation based. Please do what’s right for community and not CSU’s pocketbook.

31. Develop into a Senior Living Community

32. Ed Zdnek – Working with Miller Family (Land owners with 40 acre lot to the north).
   a. Would like to be included in the planning process.
   b. Millers are developing the property to the north.
   c. Potentially developing a Continuing Care Residential Community with Open Space.

33. Please keep it open for Recreation, Peace, Dog, and their human enjoyment. Being so close to nature in today’s crazy world is good for everyone. Thank you.

34. CSU to gift land to city. Keep Open

35. Combined FC/Loveland community GOCO money to preserve open space, maybe multi-use outdoor recreation, hike/mtn bike trails, picnic area, etc.

36. Can city of Fort Collins purchase the property?

37. Multi-Use – Open space (especially retention areas, west, trails, etc.) & residential, affordable housing for CSU Employees. Especially staff and others.

38. There is plenty of low-income housing on the west side already. No more of that, please.


40. No housing, shopping malls, or development of any kind.

41. BRB – Getting louder over past year.

Existing Site Station

1. Artery status of Overland Trail?
2. Annexation process?
3. Will there be high density housing built to offset demo process?
4. If new development is built – will it feed into CSU’s goal of being green/carbon neutral?
5. Hopeful whatever is built is innovative and an example for the future
6. Land banking – future of affordable housing
7. Communal work with City of Fort Collins, Loveland, Larimer County Parks, and Great Outdoor Colorado (GOCO) for multi-recreational and outdoor use exclusively
8. Run an analysis – recommend a traffic and noise study
9. Worried about too much traffic and noise – sound reverberates off foothills – nervous about noise
10. Native animals could be impacted – concern for overall environmental impacts
11. Across Maxwell area where the land deviation exists – could be turned into another reservoir
12. Hopes for partnership with Larimer County, City of Fort Collins, and CSU to buy the land and extend open spaces
13. Take down Hughes
14. If land is developed – develop on NE side with same density as along Sumac
15. Build townhomes and/or single family homes from SE to SW side along foothills (similar to Ponds development)
16. Concern for impacts on Pineridge, Maxwell, and Dixon Reservoir
17. If area’s developed – wants single family and low density to preserve recreational flavor and whole west side
18. Development should embrace recreation – should be some form of recreational area that embraces outdoor/active culture
19. Develop something that everyone can enjoy
20. Mom/Pop shops would be fine but keep recreational culture represented
21. Development should be low density – anti inner city high density
22. If not developing – use space for high schools or something community supported
23. Leave for festivals for city, county, and CSU
24. Park n ride to new stadium
25. Should reflect CSU’s message for sustainability and green living
26. Don’t build high density developments along foothills – housing can happen anywhere – keep as green and nature based as possible
27. Development could be mixed use i.e. low-density housing, recreational, and retail and restaurants
28. Implement traffic study – Overland is narrow with few through streets and there’s also another high density development across the way
29. Pro low income housing – keep in mind when looking for ways to develop
30. Would be interesting to turn Hughes into something – studio apartments?
31. If Hughes is torn down hope that the materials are recycled
32. Keep existing trees – spent time and effort being cultivated
33. Respect and preserve culture of the west side – neighborhood focused/recreational
34. Preserve as much open space as possible
35. What would the Maxwell’s want? It was their land
36. Preserving safety of the area – lots of trails and open space that people currently feel comfortable using all times of day and night
37. Traffic, noise, and density are concerns – wants to keep view of mountains preserved – want single family/2 story housing
38. Keep recreational feel
39. Please listen to residents and not developers
40. Focus on housing for local CSU employees before opening up to the community
41. Contact Niantic (Pokémon Go creator) and remove Pokémon Go Gym “Sonny Lubick Field at Hughes Stadium.” – could be a safety hazard when/if demo and development begins
42. Fence backing up to Sumac that CSU maintains – what’s going to happen when/if demolition and/or development begins
43. Maintain green characteristics – selling point of buying a house in this part of town
44. Safety concerns about low income housing around trails and outdoor spaces
   ○ Dan’s answer – talk about priority given to CSU employees
45. Will there be a lock on low income housing? – concern about people buying low and selling high
46. Turn area into schools for growing population
47. If developed as low-income housing for CSU employees – how will that be managed? Concerned about it turning into student housing which brings noise, trash, parties, etc.
48. You lied to us telling us it wasn’t being redeveloped to get us to come here. You said you were
going to hear us about whether it should be redeveloped. We’re not being heard. You’re going
to pay for it regardless. I hope you will consider the impact for the animals, people, and
environment.
49. Concern about the drainage area, trees there, and impact on neighborhood if that’s changed.
50. Concern for the value of existing homes if low income housing is built
51. Traffic and traffic noise that comes with building additional homes are a concern
52. Please preserve the history of the area/space
53. Encouraged by thought of housing mixed with recreational space
54. Safety concerns regarding traffic if area is developed
55. Maintain integrity of the foothills
56. Create a multi-use recreational area
57. Do not care if Hughes stays or gets torn down
58. NO housing or commercial retail developments
59. Would rather see a golf course developed (if financial gain is the motivator) than housing. Golf
course – open space, tourist attraction, brings in money, etc.
60. Area is the last existing open space recreational area left in town
61. Not excited about low income housing
62. Would like to see open space funds (GOCO) used for preservation of space
63. Concerned about Sea Surf being involved in the development of the project
   o Dan’s answer – they won’t be
64. If area gets developed I will move away
65. Once you start to fill the area with something that could potentially ruin it there are long
standing and far reaching negative effects
66. Like the open space idea – don’t want housing or retail. If it gets developed wants it turned into
   a park (like what they’re doing on Zeigler over by Fossil Creek HS). That way you’re using the
   land but preserving the integrity of the environment
67. Small concert venue would be nice – would encourage community interaction
68. Capitalize on and preserve open space – dovetailed with master trail plans of city and county
69. Keep culture of the west side of town
70. Already have plenty of high density housing on the west side
71. There’s lots of wildlife in the area – please keep area as wild as possible
72. Would like the city to take it and use it for an ice rink and outdoor concerts
73. Sacrificed centrally located housing in favor of a stadium used infrequently in central Fort Collins
   – don’t compound the error by establishing housing in the foothills
74. Hopes for a senior-living focus in new development
75. Are they thinking/targeting faculty housing opposed to student housing?
   o Dan’s answer – Yes
76. Curious about what types of home will be built if area is developed – singe family, condos, etc.
77. Wants to preserve trails
78. Curious about the time frame
   o Dan’s answer – will take several months before anything occurs
79. Transit is weak in that area – improve public transit (buses) which could help with traffic and
   parking concerns
80. Tell CSU to keep/preserve a pocket of land – don’t sell everything
81. Keep continuity with the land to the North – Miller property
82. Move government facilities in downtown Fort Collins to Hughes area – develop high taxed housing properties downtown
83. Turn area into sports fields/facilities for kids
84. Keep some open space truly open/natural for kids to explore in
85. Keep it open for recreation, nature, and peace and quiet next to city
86. It’s special to be able to take your dog into the area
87. Don’t cram it full of houses and retail like Walgreens and Starbucks

**Land Use Context Station:**

(+1) = agreement by another person who wants to second the comment

1. No major housing construction; no condos
2. Does the property have to be annexed into the city? Why? A developer would have more latitude and flexibility if it wasn’t annexed.
3. No concert venue due to concern for noise.
4. Because the land was given to CSU for practically nothing, ethically they should raise the money to tear down stadium, make natural area at CSU’s expense, and give the land back to the people.
5. Once a little housing is there, it will continue to spread. We’ve seen that in other areas nearby.
6. 800 homes would be huge amount of traffic.
7. What is the GMA (Growth Management Area) process?
8. There is plenty of low income housing on the west side of town. Don’t need more.
9. Don’t want to see wildlife diminished by this project.
10. Wants full transparency in the RFQ/RFP process with all the submittals posted online for the public (not just the shortlist submittals, but all of them).
11. Wants low density housing, not high density—or wants open space—no retail, but recreation is okay.
12. In old town, city and county buildings don’t collect tax (low tax base). Put this issue in front of the community by putting the low income housing (high tax base) in old town, then move the city and county buildings to the Hughes area where there is lower traffic impact.
13. Consider how the adjacent Miller property coexists with the Hughes site cooperatively. The Miller property has not had any contact from CSU/Facilities or from Icon on planning.
14. Concern about low income housing—what it will do for safety of recreation for kids, women, and family, as well as for the property value of the neighborhood.
15. Keep open space/recreational
16. Would a new school go in, if more housing went in? Could a low density neighborhood handle that? Who would pay for the school?
17. Do developers have to set aside a certain amount of park/recreation/open space if housing goes in?
18. Is there any idea of how much space that area would support?
19. Velodrome for cyclists could bring in income.
20. High density housing is a concern because city is already doing it; do it by I-25, not in a place with natural boundaries.
21. Leave the property for festivals for the City, County, and CSU.
22. The property could become a Park & Ride to transport people to the new on-campus stadium.
23. (This commenter has been in Fort Collins since 1967) A special quality of Fort Collins has been the ability to protect open spaces in this community, so it can be watershed and natural landscape. It is important to have a buffer between the developed city and the rest of the foothills.
24. If developed, restrict the property to low-density mixed use.
25. Would like no development—or make the property a concert venue to compete with Red Rocks.
26. Mostly worried about traffic
27. Against more housing and traffic, especially given the development on Drake and Overland.
28. Ecological effects—concern over the traffic along the reservoir road (“Every day will be like game day”)
29. Make it a high end golf course, restaurant okay too, to provide income. It would preserve the view of the foothills while being natural but manicured.
30. (Sarcasm intended) It should be a gated community reserved for the most elite of the 1% comprised of McMansions and servant quarters. Or, a commune for hippies.
31. Think about using natural materials with respect to absorbing sound.
32. Concern for flood planning
33. (+1) Would like it to be a natural area—it’s a very special space. Keep growth on the east side.
   There are wonderful animals that live on this property.
34. 18 years ago when she moved here, it was originally communicated to this person that this area would remain a green belt all the way to Loveland. She is very concerned about high density growth in this belt.
35. Existing roads aren’t adequate.
36. This is an area that the community uses.
37. Preference for lack of buildings; maintaining the view is important.
38. Suggestion to add another reservoir on this property that connects to the bottom of Horsetooth.
39. Don’t want to see homes built; this will maintain view and space and promote tourism.
40. Will there be an environmental assessment (from human to wildlife to noise, etc.)?
41. Leave the space natural—no development (no parking lots, parks, houses); trails are okay
42. No need to keep developing.
43. Treasures the open space; the property is unique—the interface with the prairie, foothills.
44. What is the zoning for the space? Question about the area represented as LMN (represented in the map).
45. Don’t add traffic—concern about more vehicles and pollution and the environment. Concern about the animals that live on that parcel.
46. Concern that what comments that are received from residents will be put aside for what makes the most money.
47. Keep it natural—open space for community and dogs.
48. No housing, shopping malls, or development of any kind.
49. What is low income or affordable housing? Who does it include? Would like this defined.
50. No more shopping malls or big name stores, no hotels or resorts. Preference for an art center and crafts-based area, could have a healing center and alternative businesses, old town unique feel is okay; no box stores. Other ideas: Bike paths, open space, community farm, a place where
art is integrated with open space, eco-friendly landscaping for kids and animals, eliminating the use of toxic stuff like pesticides. More like the Gardens on Spring Creek.

51. No students.
52. “Agriburbia”—a combination of agriculture and houses together, right under the “A”
53. Mode of sustainable living with good building materials and the use of vegetable gardens.
54. Low density development with a feeling of space.
55. Have a development for profit, do not have low income housing tax credits used, but instead have it with a proper mix of affordable housing.
56. Incorporate housing in a balanced/aesthetic/open way. There’s already high density condos/housing near here.
57. Keep it a dog/human focused area—like having a dog pool.
58. CSU said this property was too valuable not to develop. However, the property is too valuable to develop.
59. Need for innovative transit-oriented workforce housing, mixed use with recreational space merging into open space around it.
60. Currently serves as space for running and dogs.
61. Limit traffic
62. NO HOUSING, NO COMMERCIAL
63. Venue where it maintains integrity of the foothills, animals, open space/multi-use (hiking, golf course), which would bring in tourist recreation based money.
64. Ask CSU to raise employee wages to not be forced to provide low income housing.
65. Support low-density development, however make reasonable and appealing if high density low income housing, then target families—but then issue of traffic, so provide resources within the neighborhood and promote alternative transit.
66. Is there a potential buyer already for this property?
67. Will CSU lease the land? –Steady revenue
68. What is the economic value?
69. What about this space for senior housing? A community of different levels of care; a building that includes daycare for seniors and children.
70. Would like to hear a wish list from the City of Fort Collins before any developers come on board or any more meetings occur.
71. Integrity of the open space recreation is important; protect it. That’s the reason why I moved to my neighborhood.
72. “You lied to us. The letter said you were going to listen about whether we are redeveloping or not. If you take down the stadium, raise your own money for it. Please consider the animals, the people, and the environment.”
73. (+1) Sell to Stryker/music venue (Fort Collins Red Rocks)
74. Low density—acreages/horse properties
75. (+1) Detention pond – impacts of development, will it handle
76. No “Destination” Development
77. No retail
78. 10 pm Quiet time
79. (+1) Like Observatory Village or Rigden Farm, Bucking Horse would be great.
80. Community feel, mixed, nothing big.
81. Planned community
82. If CSU owns land & private developers build- is it taxable on land & improvements?
83. Not money driven
84. Not multi-million dollar homes
85. What is affordable?
86. Lower density
87. Mixed use
88. Neighborhood retail—no big box.
89. Repurpose Hughes to other uses
90. If more housing, what are the impacts on local schools?
91. Engage PSD early in the discussion
92. No new traffic lights
93. Low density/no traffic
94. Preserve open space
95. Mixed better—No development
96. Low height—two story maximum
97. Overland/Drake impacts
98. Keep feel of area
99. This is a big PR show—won’t change desire to development
100. Stay as is—given to CSU should remain with public purpose—CSU doesn’t need –tear down—return to people as a natural area—ethical thing to do.
101. (+1) Leave natural / no development
102. (+1) No parking lots
103. (+1) Trails open space are ideal
104. (+1) Critical to conserve wildlife habitat and corridors
105. (+1) Travesty to develop
106. (+1) Poudre District Library & other community uses such as Gardens and other recreation if developed
107. Secondary reservoir—whole site with associated open space.
108. Lied to us to get us here. Letter said “talk about” whether to develop.
109. If develop—raise money yourself.
110. Please consider animals, people, and environment.
111. Take stadium down at CSU expenses and leave land alone.
112. Reflect “proposed” trail, City-Bike FC.
113. Connections for bike connections between city natural areas.
114. Strengthen trail connections
115. Connect natural areas—County and City.
116. CSU should keep this property: no more land, sale is short-sighted
117. Maintain easement for City connections
118. Will money override values
119. Trail connection to neighborhoods east of Overland Trail.

Community Needs & Values Station:

1. Move & Expand the Holiday Twin Drive In to this new space!
2. Open space & capitalizing on what is already there
   a. Connect trails
b. Keep disc golf course
c. Add Velodrome

3. Open space, close to nature
   a. Keep the peaceful atmosphere
   b. Keep the views of the ridge
   c. Keep the openness/visibility

4. Velodrome for bicyclists
5. Space for festivals – CSU & City
6. Parking area to transport fans to new stadium
7. Use space so community can benefit ex. like Spring Creek Gardens – but doesn’t necessarily need to be a garden
8. No more traffic lights – don’t make something that would make this happen
9. Keep it in county zoning
10. Utilize space so community can benefit i.e. Spring Creek Gardens
11. Minimize traffic & control traffic
12. Permanent home for farmer’s market - This ties to CSU’s mission & education
13. Place for dog(s) to roam without city restriction
14. Open space & mixed housing (affordable +, not low income)
15. Low light – respect the culture of the west side of town
16. Keep integrity of open space, not be an eye sore, protects property values
17. Encourage conservation & land trust groups to purchase land & gift it to the city for open space
18. 100% opposed to construction (housing, retail, commercial)
19. Open space trails
20. New library location & open space & community gardens & conserve wildlife corridor & habitat
21. Open space – lots & lots
22. Protect passage/migration areas of wildlife
23. Straight bus-line from overland to campus
   a. Would ease parking issues on campus
   b. Important for staff & faculty
   c. Important for affordability & access to campus
24. If developed, can they use local developer?
25. Green energy space/sustainable space/eco-friendly
   a. Solar power
   b. Create an example of what can be done with sustainability & green energy
26. No retail/no commercial
27. Velodrome
28. Outdoor gym/fitness area
29. Keep Frisbee golf!
30. Keep water retention
31. Protect wildlife & incorporate into design & encourage more wildlife
32. Why does it need to be annexed? Why does CSU want to get rid of it? Can CSU repurpose it to their benefit? Can CSU repurpose for CSU?
   a. Use for educational purpose -> research on plants, land, animals, environment
33. Low-density/low-profile & sustainable living
34. No Walmart! No retail/no commercial
PUBLIC COMMENTS RECEIVED
NOVEMBER 6, 2019 THROUGH MARCH 10, 2020

35. Community gardens – weave in w/ educational purpose of CSU
36. Farmer’s market
37. Keep integrity of CSU as Ag School
   a. Repurpose space to support mission
   b. Education
38. Protect mountain bike trails
39. Low profile & minimize traffic
40. If land gets developed for affordable housing and/or CSU staff/faculty, how will it be regulated?
   a. Concern for property turning into rentals by CSU staff/faculty kids/college students
   b. Concern of rental property vs. ownership
41. If land is developed. Make low profile & blend in w/ surroundings & environment
42. Maintain integrity of foothills
43. No eye sores!
44. Wildlife refuge & be mindful of wildlife & their habitat
45. Create parking low profile, no high rises
46. If developed make multi-use
47. No hotels, resorts, commercial/big-name stores
48. Large park!
   a. New recreational opportunities
49. Non-chain, local food
50. Food truck rally night(s)
51. No bars or brewery or distilleries
52. Quiet space
53. Multi-use space
   a. Has retention ponds – keep
   b. Keep open space
   c. Some affordable housing – keep towards Overland
      i. CSU staff
54. Multi-use space
   a. Keep the views (nature & mountains)
   b. Keep the trails
   c. Connectivity/ability to connect to nearby spaces/parks/open space
   d. Make a “City Park 2”
   e. Recreation
55. Take stadium down & leave alone
   a. Wildlife viewing
   b. Lied to us about redevelopment
   c. Protect the wildlife
   d. CSU must raise money for taking down stadium/whatever happens
   e. No housing or construction because we lose it all
56. Tear down stadium & give land back to the people
57. Make all natural area
58. No housing, no commercial development
59. Affordable Housing – only part of the space, maintaining natural area
   a. Limit business & local, not commercial/non-local
60. Maintain integrity of foothills
61. Faculty/staff housing & open space/natural area
   a. Mixed type of housing
62. Open Space
63. Open space w/ recreation opportunities
64. Maintain outdoor community space – Fort Collins/Loveland/County to work together to create
65. Open space
   a. Protect interface between the mountains & prairie
   b. Close to wildlife habitat
   c. Non-manicured – keep it natural
   d. Unstructured
   e. We want to come to see nature
66. Open space
   a. Conserved space, protect interface between mountains & prairie
   b. Trails for walking
   c. Wildlife conservation space
   d. Central wildlife corridor
67. Lower crime at Elizabeth/Overland & mitigate this issue
68. Open space
   a. Walking trails
   b. Natural habitat
69. Open space
70. Recreation space
71. If there must be structures, build affordable housing (2-story max height, low profile)
   a. NO retrial space
72. Open space/recreation
   a. Yoga studio
73. Open space/recreation
   a. No condo & no residential
   b. No commercial
74. Open space & recreation
   a. Keep the natural views
   b. No man-made structures
75. Open space/recreation
   a. Maintain viewshed
   b. Don’t lose access to trails
   c. Don’t lose user ability of open space/personal recreation
   d. Keep values of Fort Collins biking/transit/sustainability & inclusivity
76. More open space
77. Additional reservoir
78. West Elizabeth needs additional traffic light at Overland Trail (or a roundabout)
79. More open space/recreation – large space
80. Lower traffic
81. Additional traffic lights on Overland
82. Affordable housing
a. Lower cost of construction
b. If CSU sells Hughes land to developer, could some of the money go back to developer in a covenant to help cover development cost so it makes it more affordable to lower income brackets?

83. Leave space open (natural preserve)
a. Not much open space along foothills now

84. Low profile if developed

85. Park-like
   a. Mountain bike park
   b. Ball fields
   c. Picnic areas

86. Recreation/open space/bike path/walking paths/sledding hill/dog park
   a. No additional construction (housing, buildings)
   b. No additional congestion/traffic

87. Open space
   a. Link to other open spaces nearby
   b. Create pedestrian/open space corridor
   c. Unstructured recreation – nature-based

88. Protect access to trails from neighborhoods

89. Low density housing

90. Need for openness

91. Increase park area & accessibility to parks

92. No gas stations / no big box retail

**Traffic, Multimodal Access Station:**

<table>
<thead>
<tr>
<th># IN FAVOR</th>
<th>STATEMENT/ISSUE/SUGGESTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Multiple buses on multiple routes that’s paid by the developer</td>
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<tr>
<td>3</td>
<td>Roundabouts are great!</td>
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<tr>
<td>3</td>
<td>Plan ahead – make sure whatever goes in has traffic capacity to accommodate BEFORE it becomes a problem. Proactive, please.</td>
</tr>
<tr>
<td>5</td>
<td>Moved to the west side of town to avoid the traffic and congestion happening in other areas that are already more developed. Please do not put in more housing/traffic, high rises, etc. Keep it beautiful, scenic, and a beauty that attracts outdoor enthusiasts!</td>
</tr>
<tr>
<td>1</td>
<td>Pedestrian crossing lights from neighborhoods on east side</td>
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<tr>
<td>5</td>
<td>Accentuate open space already in place – dovetail with current master planning for trails and trail</td>
</tr>
<tr>
<td>1</td>
<td>Speed bumps on Overland</td>
</tr>
<tr>
<td>2</td>
<td>No speed bumps on Overland</td>
</tr>
<tr>
<td>2</td>
<td>Mixed use open space/residential (some affordable)</td>
</tr>
<tr>
<td>1</td>
<td>Tell CSU to keep part as something easy on the eyes/breathing room and sell the rest</td>
</tr>
<tr>
<td>2</td>
<td>Speed bumps on Stuart</td>
</tr>
<tr>
<td>1</td>
<td>Build overpass or means to cross Drake to get to Overland Park – if traffic increases</td>
</tr>
<tr>
<td>1</td>
<td>Zipcar station pick-up point within development and bus line to help congestion</td>
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<tr>
<td>4</td>
<td>Concern with overloading of Drake &amp; Prospect</td>
</tr>
<tr>
<td>2</td>
<td>Increased housing will increase traffic to Horsetooth Reservoir for recreation</td>
</tr>
<tr>
<td>1</td>
<td>Light at Dixon Canyon Rd./Overland</td>
</tr>
<tr>
<td>6</td>
<td>CSU tear down stadium and return property to the people to make into a natural space @ CSU’s expense</td>
</tr>
<tr>
<td>3</td>
<td>Once building starts it will never stop and lead to increased expense and traffic</td>
</tr>
<tr>
<td>4</td>
<td>Congestion on Drake is terrible</td>
</tr>
<tr>
<td>5</td>
<td>Decrease traffic by affordable housing so CSU employees do not have to commute in to Fort Collins</td>
</tr>
<tr>
<td>3</td>
<td>Shuttle service for employees and students to campus</td>
</tr>
<tr>
<td>2</td>
<td>Shuttle service to games and events for fans</td>
</tr>
<tr>
<td>6</td>
<td>Greenway through property on Overland to Prospect</td>
</tr>
<tr>
<td>2</td>
<td>You lied to us – the letter said we were talking tonight about whether to redevelop or not. If you do, you raise the money yourself, including the stadium demo and leave the land as open space and consider animals, people, and the environment – not the money.</td>
</tr>
<tr>
<td>6</td>
<td>Interested in reducing traffic &amp; pollution</td>
</tr>
<tr>
<td>24</td>
<td>In favor of more open space</td>
</tr>
<tr>
<td>8</td>
<td>Affordable options for housing</td>
</tr>
<tr>
<td>11</td>
<td>More bike lanes</td>
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<tr>
<td>5</td>
<td>More transportation options</td>
</tr>
<tr>
<td>1</td>
<td>City/County partnership</td>
</tr>
<tr>
<td>6</td>
<td>No lights on Overland which causes congestion</td>
</tr>
<tr>
<td>3</td>
<td>No lights on Elizabeth which causes congestion</td>
</tr>
<tr>
<td>1</td>
<td>No lights on Mulberry which causes congestion</td>
</tr>
<tr>
<td>11</td>
<td>Roundabout on Overland and W Elizabeth and Mulberry is very dangerous</td>
</tr>
<tr>
<td>7</td>
<td>Stoplight at Overland and W Elizabeth</td>
</tr>
<tr>
<td>9</td>
<td>Relieve congestion on Prospect</td>
</tr>
<tr>
<td>1</td>
<td>Light on Yorkshire/Drake needs to be on a regular timed cycle</td>
</tr>
<tr>
<td>1</td>
<td>Yorkshire/Drake light cycle is okay as is</td>
</tr>
<tr>
<td>5</td>
<td>Volume concerns on Stuart</td>
</tr>
<tr>
<td>8</td>
<td>Stoplight at Overland/Drake needed</td>
</tr>
<tr>
<td>1</td>
<td>Opposed to stoplight at Overland/Drake. If something is needed – prefer roundabout</td>
</tr>
<tr>
<td>8</td>
<td>Wildlife concerns with traffic (more roadkill)</td>
</tr>
<tr>
<td>9</td>
<td>Overland/Drake – roundabout should be added</td>
</tr>
<tr>
<td>6</td>
<td>Add pedestrian sidewalk on east and west side of street</td>
</tr>
<tr>
<td>4</td>
<td>Noise reduction needed with added traffic</td>
</tr>
<tr>
<td>4</td>
<td>There is only transit to CSU but not downtown. Please add downtown too!</td>
</tr>
<tr>
<td>5</td>
<td>Sell the land to Pat Stryker for music venue – Red Rocks of Ft. Collins</td>
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<tr>
<td>3</td>
<td>Add low density housing</td>
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<tr>
<td>3</td>
<td>Use some of the acreage for horses</td>
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<tr>
<td>11</td>
<td>Protect wildlife migration with corridor</td>
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<tr>
<td>4</td>
<td>Do not widen Overland to 4 lanes</td>
</tr>
<tr>
<td>2</td>
<td>Keep the speed limits low</td>
</tr>
<tr>
<td>1</td>
<td>Add housing development like Harmony cottages</td>
</tr>
<tr>
<td>2</td>
<td>Encourage living and playing in the area vs. driving elsewhere</td>
</tr>
<tr>
<td>6</td>
<td>Do not make the area a retail or destination spot</td>
</tr>
<tr>
<td>2</td>
<td>Add a stoplight and pedestrian crossing at Hampshire/Drake</td>
</tr>
<tr>
<td>12</td>
<td>Use Hughes to connect Maxwell and Pineridge as a natural open space</td>
</tr>
<tr>
<td>2</td>
<td>Widen Dixon Canyon Rd. if development happens</td>
</tr>
<tr>
<td>1</td>
<td>Will traffic study push traffic to Dixon Canyon Rd?</td>
</tr>
<tr>
<td>1</td>
<td>Left turn on westbound land on Dixon Canyon Rd</td>
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<tr>
<td>1</td>
<td>Would like to partner and have involvement in the planning process for the 40 acre Miller property north of the Hughes Stadium property</td>
</tr>
<tr>
<td>1</td>
<td>Relocate the city offices out to Hughes since they currently occupy prime real estate space and generate no taxable income. Instead rent that space to tax generating occupants</td>
</tr>
</tbody>
</table>
The below comments were received between August 28 and October 31, 2017, through the Hughes website online feedback form. More than 100 community members have used the online form to email their ideas, questions and concerns. All feedback received is cut and pasted below with all identifying information about the submitter removed. CSU will continue to update this document as more input is received via the online feedback form.

1. I would like to see any type of program/project that would benefit the Northern Colorado/CSU community.
   * Low-income housing for CSU staff and students (not like the upscale/overpriced housing options near campus)
   * Non-profit Fort Collins Rec outdoor adventure park with subsidies for Fort Collins residents ([http://www.colorado.com/ziplining-aerial-parks/epic-sky-trek](http://www.colorado.com/ziplining-aerial-parks/epic-sky-trek))
   * Convert the stadium to a large seating amphitheater for outdoor concerts
   * A really awesome outdoor space for residents.
   * A tree research area (in other words an area where CSU can plant a variety of species of trees to learn how different trees grow and adapt to Colorado weather and species) or gardens since the CSU gardens were relocated with the new stadium

   What I don't want to see
   * Investment opportunity for a corporation for high end housing (similar to the ponds) or high end student housing like those near campus
   * No green space or parks for residents
   * Removal of disc golf course

2. What type of housing are they planning for the redevelopment of Hughes Stadium? I am a resident in this neighborhood and do not want to see low income housing in my neighborhood. Can you provide more details on the type of housing?

3. What is the best method for me to give specific feedback to Colorado State University, in particular Tony Frank, and to the Board of Governors? Will we be able to see the comments and information that you collect and forward to CSU and the Board of Governors?

4. My highest priority is natural features, trails, wildlife and open space. Please fully explore a sale to the City of Fort Collins Natural Areas Department so that it can be preserved as an open space. The department has a large conservation fund and can pay fair market value. I am a neighbor and the reason I chose this area is the access to the outdoors. Please don't pave paradise!

5. I live in Quail Hollow Neighborhood, very near Hughes Stadium. I don't recall seeing an invitation for the September listening session. Is there a way for me to attend? Thank you
6. Overcrowding the west side and the foothills is not good for the city or the natural areas near by the proposed site. If it has to be developed larger lots and buffers to minimize the amount of vehicle traffic is preferred. Since there is no shortage of buyers in Fort Collins making some arbitrary non-market based price should not be done. Cramming more apartments like the area just north of the site will increase traffic, noise and lights on the foothills ecosystem. The city just paid a large sum to buy the BACK half of the Horsetooth Rock area which is viewed by only a few daily so putting more housing next to the foothills effects all in the city and lessens the open areas.

7. This would be a great place to build an outdoor amphitheater to compete with Red Rocks and have CSU build a west campus since student population is growing. No other universities in America are selling their land for development. I would hate to see another boring development take this over and ruin this side of town.

8. Please keep it natural, no dense housing projects, please. A concert venue would be nice. Something tasteful.

9. We live on Coneflower Dr, in the Ponds subdivision. We have not received an email, or physical invitation to this Sept 20th Listening Session. Please send an invitation, as our neighborhood is adjacent to Hughes Stadium, and we wish to attend.

10. A concert venue or the drive in theater could move there. Please do not sell it to residential developers. There is too much housing construction on the west side of Fort Collins. The open space is critical to Fort Collins’ culture and values.

11. I definitely feel that CSU should look at developing affordable housing for its employees. The cost of living is so high here, and it is becoming harder and harder for us to hire employees for jobs that pay below $24 hour. This is our chance to develop housing that can be used by our employees - Fort Collins is rapidly running out of room to build housing. I am a CSU employee, and feel very strongly about this.

12. Regarding the affordable housing option: The west and north-west portions of Fort Collins already have a very high concentration of lower income housing. Schools such as Bauder Elementary, Blevins Middle School, Lincoln Middle School etc are already at a 70% free and reduced lunch rate - a valid proxy for determining the percentage lower income families in an attendance area. While I understand the Universities need for developing lower income housing for staff, it is important to consider the impact to those schools and communities that are already struggling to provide the support and resources needed to assist those families in need. Affordable housing projects in Fort Collins need to more fairly dispersed into other school attendance areas (east and south-east Fort Collins) where funding and resources are more available. Bottom line - affordable housing is needed in the city but concentrating it all on the west side of Fort Collins will only hurt already struggling schools and the community. Feel free to call me any time. I haven't received an invite to
the September open house but would like to attend as I live less than 1 mile west of Hughes. Thank you for your consideration.

13. Good morning, Hughes Stadium (re-development) gatekeepers;

Ever since Hughes Stadium was built, a key component of its 'sizzle' was the natural backdrop. If you read past articles about Hughes Stadium, time and again, it is described as being nestled in the foothills, splendor and beauty surrounding it, making it a 'special' place, not because of the stadium, but because of what it lay next to.

Turning the now defunct Hughes Stadium into housing will be a lost opportunity for future generations. The noble sounding "build affordable housing' for the masses is a bunch of bull - you all know that. No matter what the price point is (and housing nestled against the foothills isn't going to be given away), or how many houses are built, housing availability will still be chronically short in Fort Collins. At current growth rates, Northern Colorado will be a blob of indistinguishable development from Cheyenne into Denver in less than 50 years. There is no vision in adding to that reality - and really, putting housing on this site shows no effort at making Fort Collins, and Colorado, a better place, a special place.

Against the wisdom of the bean counters, the true visionary choice for Colorado State University is to protect this land for future generations. CSU is a Land Grant University - national land given to the State to teach citizens about agriculture. There is no better way to honor this legacy than to protect this land, taking advantage of the natural resource in place, and adding something that will be a true gift to the citizens of Colorado, something that will last forever.

This is from Colorado State University's own website:
"At Colorado State University, sustainability is foundational to who we are. As a land-grant university, we’re compelled to steward, conserve, and protect the world around us. It's central to everything we do - from academics, research, and operations to outreach. It's an ongoing mission that we embrace together."

When there is money to be made, there are bad choices to be had. The singular opportunity to protect and preserve this space is the higher and greater use for the old Hughes Stadium footprint - it fits with the vision that Colorado State University itself says is important, helps to protect a unique Colorado ecosystem, and ensures that as growth and development continue unabated, the citizens of Fort Collins and Colorado have a legacy from Colorado State University that provides a respite, instead of chewing up this beautiful site with housing and development that will economically benefit only a handful of citizens.

14. I hope this land is not developed as affordable housing. When have few enough open spaces. I hope this can be maintained as open for the citizens to enjoy. Its location is optimal for this. We do not need more homes or apartments blocking one the views left. I think more residential units would be the worst possible uses of this land.
15. The land including Hughes Stadium should not be sold or leased for development. CSU has made a commitment to achieving 100% "renewable" sourcing of electricity and this land could be advantageously used to install a massive solar photovoltaic farm serving the CSU campus, thus showcasing a part of CSU’s contribution towards mitigating climate change. Alternatively, this land could be used as part of a pumped hydroelectric energy storage project (using Horsetooth reservoir), but my preliminary estimations are that this may not be feasible. Thank you

16. Open space has the greatest long-term benefit to the people of Fort Collins and northern Colorado. While the idea of affordable workforce housing sounds appealing, I have no faith that that could ever be achieved. It’s simply rhetoric. Once the land has been declared for sale, the highest bidder will eventually win.

17. I have commented to the City and city council that I think we should build a large recreation/bike park for our residents. Something akin to Valmont Park in Boulder. With the announcement that Hughes will have to be demolished and the rewriting of the City Plan, I think the ideal location for that park would be in the stadium’s grave and the ideal time is now. The location already has existing bike trails (up Maxwell), a disc golf course, and is near enough town but not in the way of current development to be ideally useful and successful. We have wonderful bike paths and some great hiking/biking trails in town. What we are missing, however, is a quality bike park. Valmont Bike Park in Boulder is a great example and has been hugely successful. These efforts reduce crime, encourage healthy living, and increases the quality of life for residents. Boulder was able to re-draw their city Master Plan and open the park within just a couple of years, and I think Fort Collins could be even more successful using Boulder’s signature project as a guide. PLEASE consider this option. It will have a large impact on the City, and draw more quality students and workers to the town and University. Thank you.

18. Northern Colorado lacks a large concert venue that is big enough to attract bigger, more well-known acts which bring a huge list of benefits. With minor retrofitting, part of the stadium could be converted to that kind of concert venue and amphitheater and still maintain a piece of Hughes as part of its legacy. Think Red Rocks, but right here in town, and similar to Red Rocks, it doesn’t need to be limited to concerts. They host a variety of events, have day uses, and it adds a sense of place and community. Not all of the land in the area would be required for a concert venue either, and it could still allow those other pieces to be developed as the market sees fit. It would be a great add to our community, become a huge economic draw, and become a landmark that has historical and sentimental value. Fort Collins overall is slowly developing the arts and music scene. It would build upon that and add a place of entertainment and culture, as well as some geographical balance to Fort Collins by adding a destination to the west side. Having an anchor facility would bring Fort Collins to a new level that all residents could enjoy and appreciate.

19. Hello,
I live in the area of Hughes Stadium but unfortunately I won’t be able to make it to the Neighborhood Listening Session, so I would like to make sure my voice is heard on how to proceed
with this unique opportunity of development in west-central Fort Collins (of course FC must eventually annex the site in order to provide proper zoning, permitting, etc).

I am glad that CSU is seeking ideas for this site, and I like what the web page says about community needs ("affordable housing, walkable neighborhood, community culture, sustainability"). Here is my vision for the site which I hope someone will listen to: a mixed-use, walkable/bikeable neighborhood - not just residential! - with a *grid* narrow streets (no dead-end cul-de-sacs!) that have bike lanes, easy transit to Fort Collins' main attractions of CSU and Old Town, buildings close to the sidewalks like they are in Old Town, pedestrian-scale infrastructure like lighting and bike racks rather than gigantic wide open parking lots, and almost everything a community would need within walking/biking distance including an elementary school, restaurants, houses of worship, and a local market. The site is approximately 2500 feet by 2500 feet, and it would take the average person only about 10 minutes to walk from one side to another which is nothing. Biking would be even faster!

Add a transit station near the edge that connects to both the CSU transit station and the Downtown transit station. With the huge size of this location, if density is done properly, it could serve tens of thousands of people and allow Fort Collins to grow WISELY instead of sprawling out all the way towards Wellington. It could be an ideal location right up against the beautiful natural asset of the foothills and those trails/lakes/creeks, but also easy access to Campus West and CSU. Find a way to connect trails in the neighborhood to the Spring Creek Trail just south of the site, along with the Natural Areas just to the west.

Avoid sprawling apartments where parking lots surround the buildings like Rams Pointe, instead have the buildings up against a street for a more urban feel. Aim for unique living like lofts above retail & restaurants for the multi-unit buildings that front the street. Red brick buildings of 3-5 stories can be beautiful and aren't too imposing, rather than the bland beige stucco of some parts of 70's era Campus West or the giant dorm towers on campus near Moby Arena. There should also be plenty of room for single family housing provided that it's done in a traditional manner with houses close to the street, with front porches, on narrow but deep lots (think of the Old Town neighborhoods). Houses on 0.20 of an acre is plenty to work with, and alleys provide multiple ways to traverse the neighborhood while also hiding cars. Additionally lofts should be available for purchase, not just rent, to encourage property ownership and longevity in the neighborhood.

Work with Poudre School District to make sure neighboring elementary schools can handle the incoming load of new housing. Kids should be able to safely walk and bike to elementary school without fear of being struck by a car going 40mph!

DO NOT widen roads. Overland Trail and Prospect so far west can stay 2-lane roads. Instead add *safe* bike lanes, build trails, and work with Transfort to make riding buses easy (routes that operate every 20 minutes is ideal, and if a coffee shop is nearby to wait in while the bus comes that is even better!)

Avoid big-box retail of all kind, including grocery. Those have no charm and encourage driving.
Instead think of a small local market, similar to Beavers or the Fort Collins Food Co-op, that would meet most day-to-day needs of residents and would also make the big trips to King Soopers, Safeway, or Costco less frequent (this equals less cross-town traffic!)

Do away with parking minimums for this development, but learn the lessons of The Summit and provide real transit options instead. Consider financial incentives for those who don’t drive a car.

Remember that it doesn't have to be all done at once. Building in phases, incrementally over time, is a workable approach. Developers likely won't agree to this because they want their money back quick, so you might have to sub-divide the site into smaller acreage and sell to different developers. Don’t worry they will still come crawling because of how hot Fort Collins is!

I hope that this provides a vision for a more sustainable, traditional, new-urbanist spot in west Fort Collins. I can’t wait to ride my bike and come visit!

20. I am a FC resident and want to see something built here for the community! What I mean: since the stadium is so far west, it isn’t practical to tear it down for a regional attraction since people from other cities would have to drive across town to get there, clogging the roads. Instead let us turn it into a Community Attraction, for the residents! How about a "New Town" (similar to Old Town) with all the charm and fun places that could go there. Loft studios, retail, bars and restaurants.

Make it accessible with transit with bus stops that go to CSU, and trails, like to Spring Creek trail. Make it easy and safe to walk around this new development, not like the new Super Target at Harmony and Corbett, too many blazing cars! Make it something that Fort Collins residents will be proud of! Not chain restaurants and strip malls! Thank you for listening.

21. We live in the neighborhood that is invited to the listening session. However, we were out of town most of the summer and didn't get the invite in time. We would like to be invited to the invitation only listening session. Please let me know how to get on the list.

22. I would like to see the University strategically keep the property and expand the veterinary equine and food animal veterinary center. I am not in favor of selling the property to a developer, as it would impact the access and egress to the dam, centennial road and to the trails and wildlife.

23. I share concern about the fate of the Hughes stadium site, and hope that it can be preserved as open space or agricultural land.

I am a member-owner of Poudre Valley Community Farms, (PVCF) which purchases land and leases it back to farmers for local food production. This model provides farmers access to land that might otherwise be lost to development at relatively low costs. I’d encourage you to explore this model—and the idea of converting Hughes stadium into farm land more generally.
Converting the Hughes stadium site to agricultural land for local food production would be enormously beneficial to the community, and would align much better with CSU’s mission as a land-grant university than would converting the site into a housing subdivision. I hope you will consider the former concept – as well as simply converting Hughes into open space – seriously.

24. I am a musician, business person, and teacher at PSD Laurel Elementary School of Arts & Technology. I would like to share this idea for a perfect use of the old Hughes Stadium site.

Interested parties would include Pat Stryker/The Bohemian Foundation and all participants in the Fort Collins arts and education community.

Please view this link to enjoy the Idaho Shakespeare Amphitheater. It is a flexible venue that fits perfectly into an outdoor, foothills locale.

In addition to supporting our performing arts community, this is a perfect draw for residents and visitors to northern Colorado. http://idahoshakespeare.org/

25. Hello! I am a Fort Collins resident for 2 decades and I found this web page from the Coloradoan article. First I want to say to the ICON Venue Group that we do not want a Texas or California style MEGA development here in our town. At least ICON is based in Denver so they should know that we Coloradans like to BIKE and WALK and enjoy our beautiful state! Too much out of state developers not knowing our Colorado CULTURE building things that no one likes, like General Growth and that Foothills mall, what a mess, it's like they were making it up as they went along and didn't have a PLAN.

And speaking of Colorado, this spot where Hughes was built is GORGEOUS and UNIQUE right up against the foothills. Whatever is built there should HONOR that BEAUTY as well as the CSU TRADITIONS like the big A on the mountains!

If there's a neighborhood, I hope it's SMALL and the houses have front PORCHES so people can have COMMUNITY and chat with their neighbors. If there's restaurants, I hope they have PATIOS next to large SIDEWALKS so people can have COMMUNITY and have their DOGS with them outside. I hope there are PLAZAS and SQUARES so people can informally gather and LINGER and have COMMUNITY. Also, aside from neighborhoods and restaurant uses, don't forget the other uses that can help build COMMUNITY:

Libraries
Schools
Churches, Synagogues, Mosques (YES even in this day and age there is LOVE!)
Bus Stops (being inside our own cars having ROAD RAGE in traffic does not build community!)
Coffee Shops
Corner Stores (make it CLASSY like Fort Collins Food Co-op, NOT a 7-11 or Loaf-N-Jug!)
Trails

THANK YOU FOR LISTENING! Please make us PROUD to be FORT COLLINS!
26. I can't attend the listening session, but I have some concerns... It seems like ICON only has experience building arenas and stadiums based on their website... So why are they involved in deciding what goes here? Seems like a conflict of interest if you ask me!! Of course they'll want to build another stadium!!
   I live on the west side town in the Rossborough neighborhood and everyone here likes it nice and quiet... Except for game days at Hughes but those are over now. We would oppose any gigantic "attractions" on that side of town that bring crowds and noise and traffic.
   The drive-in is unique and not a problem, everyone loves it, but some new taxpayer-subsidized sports stadium like ICON builds all over the world?? No thanks!!

27. Hughes stadium and its surrounding property should include an easement along the foothills that could be donated to the City of Fort Collins. This natural area should be used as a park. This would go a long toward repairing CSU's and Dr. Franks reputation to residents of the city.

28. Due to the traffic concerns on the West side of town an additional housing development of up to 1000 single/multi-family dwellings seems inappropriate. It would be best if the University were to partner with Poudre R-1, The Fort Collins Soccer Club, Fort Collins Youth Baseball, etc. and the City of Fort Collins to develop sporting venues which could support these activities.

29. During the development process CSU should be held accountable for maintaining the property. The weeds, the bone yard of discarded materials from CSU, etc. are an eyesore and a haven for the transients in town.

30. Why should we think that anyone is going to listen to what the community says? It was the perfect location for a stadium, as past attendance has shown. The next best use would be a community park. High density residential use would make the poorly planned road system in the area a nightmare in early morning and evening hours, I get the feeling that these "listening sessions" will be one sided. Please prove me wrong.

31. Affordable, aka low income housing will negatively affect property values. I am opposed. Additionally, traditional "affordable housing" is provided as high density housing. More units per land measure equals more$$ for developer, right? This would add greater population utilizing the services and infrastructure, not to mention additional traffic, adding to the increased transit problems already associated with CSU. Let's put them in Tony's front yard. I support addition to Maxwell Natural area, CSU agricultural use or other LOW density usage.

32. Unfortunately, I am on travel for work this week and will not be able to attend the meeting. We live in the Ponds neighborhood off of Overland Trail and have been impacted by CSU game day traffic for 17 years up until this year. We learned to deal with it and planned as best we could to avoid driving on Overland Trail during games.

   Traffic has been increasing on Overland Trail over the years as it has in much of the city. It would be extremely nice for us if the new use for the Hughes stadium land be not something that would severely increase traffic on this already busier road. I was hoping the garden area that had to be
moved due to the construction of the new stadium could have been moved to Hughes. Then have the cross country teams run at this site through the gardens and CSU could have had another world class athletic facility.

Maybe there are other options for CSU besides selling it for development. I realize that CSU needs to make money, but I recommend something that better fits the boundary here between dense urban development and the Foothills.

33. We prefer NOT to have anything like the mall, shopping square, etc. I know this may not work out economically, but would LOVE to have them as nature area, if you take the stadium down. Or, somehow use the stadium as it is (or do a bit of taking down so as not to be needing frequent maintenance) for, maybe, youth athlete training etc.

34. I think it is a shame to tear down such a beautiful facility. I think it should be USED!

35. Thank you for hosting the neighborhood listening session on September 20th. It was very informative and well organized.

I agree with CSU’s decision to have the property annexed into the City of Fort Collins. It makes sense to have the city control ultimate development of the site.

I would like to see the plot developed for affordable and workforce housing primarily for CSU staff. I think the idea of having Habitat for Humanity use part of the lot in the same way they are doing Harmony & Taft Hill will significantly improve our community. Most of the lot should be for townhouses and smaller homes. WE DO NOT NEED ANY MORE 4,000 SQFT McMANSIONS eating up land and not contributing to our community.

WE need to encourage transit routes into the section which should include the underserved areas east of Hughes Stadium. WE also need bikeways, like Spring Creek bikeway, to connect residents to the city without forcing them to use automobiles every time.

36. I was at the Listening Session last night (Sept. 20). I found it to be helpful and liked that my voice was being "heard". One question that I neglected to ask: Will the public have access to the list of developers that have submitted an RFP and RFQ?

37. Whatever goes in there, don’t widen Overland Trail, because of induced traffic (it’s a *provable* fact that adding more lanes to roads brings in more traffic - if you don’t believe this, read about it!) Lots of cyclists including me ride along here, we need bigger bike lanes, but *not* more cars! Keep Overland Trail on a road diet please! So whatever goes in there, please don’t make it something that will bring in more traffic and then the traffic study says "Oh we need to widen the roads" - *wrong*!

38. At least some of the property could be designated for "affordable housing" as defined by HUD and FHA standards because there is very little, if any, truly affordable housing for first time home
buyers in the lower middle income range of earnings, young families, and persons in the service and hospitality jobs so vital to the economy of Fort Collins. Developers and builders could be given the land which should shave $15-30,000 or more off the ultimate price of a home to the initial home buyer, and a deed restriction and/or covenant could run with the land keeping the home in the affordable "pool" for 20-30 years. Affordable housing is not "low-income" housing although some of that might be considered as well. It is not sub-standard housing. It is generally a bit smaller and with fewer frills but good quality starter housing. There should be some reasonable restrictions on profiteering on this land by developers and builders. Some of the "profit" or income from the land should go to the real estate department at the University for scholarships to study and come up with more, new, and creative ideas for providing affordable housing in Fort Collins to its hard working citizens who could not otherwise afford to buy a home in Fort Collins, Loveland, or this area generally. There should be some neighborhood commercial area which would be retained by the University Endowment so the net profit could benefit the worthy students who might need financial assistance and especially in those curricula which are needed and will benefit the society of the future...not to faculty or administrative salaries and benefits.

39. I strongly encourage the University to consider the long term impact this large space and the use of it will have on the Fort Collins community. Understandable why decisions have to be made on what to do with the land and of course money is a factor, but a broader look at the appeal of our hills/open space/trails to our town. People from all over the region come to these trails to hike, run, and bike. My concern is the long term affect if the spaced is subdivided and the inevitable increase of foot traffic. Living near to this space I am also concerned about overall traffic increase/patterns. I have seen one too many accidents in the last year with the increase in automobiles during busy times on Overland Trail.

The general consensus of the community near to the old stadium is that the University is asking the community for input but the decision has been made - subdivide for lower income housing. Many feel that no matter what they say, their voice will not be heard. Please do the right thing and listen to the residents and take their ideas/input seriously and not just for "show". I haven’t met a person yet that has said, "Yes, add new homes which will increase the traffic on the trails and roads".

40. Senior housing cottages, coexisting with affordable housing for CSU staff, in a park like setting. If the homes can go up the west foothill a quarter of the way it could be beautifully tiered and then down into the "valley"... The stadium hill road going up to Horsetooth needs to be at least 3 lanes, and overland trail needs to be 4 lanes. Overland trail and drake road needs to be A ROUND A BOUT...thank you for reading this!!!

41. The thing about Fort Collins that sets it apart from all other cities in the Front Range, and in our county, actually, is the abundance of open spaces. Repurposing Hughes Stadium into a recreation area/open space will benefit our city for generations to come. We’ve got to stop the sprawl of development against the foothills.

42. Hello, I am writing to provide feedback on the Hughes Stadium property, as we were unfortunately unable to attend the Neighborhood Listening Session that was held on the 20th.
As a home-owner/resident in the immediately surrounding area to the Hughes property (and as a small business owner here in Fort Collins), my hope is that the property will end up being used for some type of recreation; for example: a park, an open space with trails for walking/bike-riding, a place for athletes to train, etc. At the very least, whether the property is leased or sold, my hope is that whatever company takes over its use keeps that area's wide-open, picturesque scenery (being right up against the foothills) and will be mindful of the environment, as it already seems very wasteful to be tearing down the stadium (which, based on my understanding, will be part of the eventual plan), as opposed to re-purposing it as some type of outdoor athletic/training facility, for example.

As Fort Collins is already becoming overly congested and housing developments (apartment buildings, etc.) are already being squeezed into what feels like every inch of space that we have left, having something that is open and natural would be wonderful in keeping Fort Collins a destination for people who want to get out and explore - really keeping with the community culture. As it is, I talk to more and more people over the years that think about leaving Fort Collins (including myself and my family) due to the increasing congestion, roadwork and construction...which is unfortunate. So I think something that keeps the sanctity of the natural area on that property would go a long way in terms of sustainability for the area.

I'm not sure what ideas or proposals might already have been shared at the listening session, but thanks very much for your time and consideration. If you could please email me back at the email address indicated, so I know my comments were received, I would greatly appreciate it. Thank you!

43. I would love to see this transform into a natural area, park, or other place to be outside enjoying our beautiful community.

44. The Hughes Stadium property should be maintained as open space for the city of Fort Collins. Access to the foothills adds value to the community, and to the university - it's already hard enough to compete with CU/Boulder for outdoor-oriented students.

45. No housing....change into natural area or fair venue.

46. Open space along with some affordable, sustainable housing (but not low-income housing).

47. Just make sure that some open space is preserved. Super high density housing there after many years of a large open area would be devastating.

48. Please, please, please NOT another housing development. A big park or natural area would be best for the community!

49. The easy solution is to force through housing that no one wants. That is what happened with the new on campus stadium. The city didn't want it, but CSU did so they said they would use private finding, which ended up being insufficient. So, they bonded it out to get their money. It feels like CSU is going to do the same thing here. People overwhelmingly do not want housing on this very
unique piece of land. Have it be natural space, a park, recreation center, or music venue. Nearly anything would be better than more housing on this side of town. Overland Trail already feels packed for a small road because the city comes to this side of town to get to the mountains, hike the "A Trail", mountain bike, etc. At the first community meeting, it was very clear and overwhelming that people do not want housing there. I hope an institute for higher learning will be more creative with this awesome piece of land than but more houses on it. One would only hope.

50. The area immediately surrounding Hughes Stadium - to the north, west, south and even east, has been a paradise for many residents for many years. I'm sure you have heard many stories, but I want to impress upon you that this space has afforded a rich history and spiritual wonderment to all that have wandered the trails. Personally, I have a connection that spans over thirty years. Selfishly, I want to protect those memories and experiences that have ultimately made me who I am (I am a CSU graduate, upstanding and contributing citizen), and I am just one of many thousands (no data to back up that number, just the folks I have seen their daily, year in and year out over decades, now). We have been borrowing freely, exploring and enjoying that which was never ours in the first place, without compensation, and I sincerely thank you for giving me (us) a wonderful place in FC to grow up in and experience life. We have no right to ask, demand, kibitz or negotiate any preservation of this space - I know this. If I had a magic wand or a winning lottery ticket - any means to buy and maintain this incredible part of Fort Collins and my life, I would do it within a heartbeat.

You have a choice, and obviously you have a business and legacy to maintain. I respectfully ask that you consider some option that will preserve the beautiful space surrounding the old stadium - at least to the north and west. If housing is built there, the new residents will love and appreciate this space, too - for decades to come.

Thank you for providing a forum for feedback.

51. Please preserve the nature of the property in some way. I realize that the almighty dollar is calling and CSU stands to make a tidy profit from selling the land. Putting in any kind of housing development, especially high-density will forever alter the neighborhoods that feed into this area. Where Hughes sits it really a destination area while Prospect and Drake are the only road in ... and out! In my opinion, high-density will be a disaster in planning. I can barely turn in or out of my neighborhood from Yorkshire onto Drake. Just since I’ve moved here the traffic has multiplied exponentially. Do we really want out of control growth and a re-make of one of the most scenic and photographed areas of FoCo...turning it into an urban jungle?

52. I would love to see it continue to be a space that can be shared with our community. An open space... Place for concerts... Natural area...etc.

53. Make it an open air park or outdoor music venue. Open some of the land up to student gardening. They can sell the food like a CSA. Use it for student hands-on learning. Please don’t put housing there. The Mountains Edge property will be full of multi-family homes soon and will totally fill
Overland Trail with too much traffic. Don't make the west side of FC like the East side. Let's come up with low impact, outdoor learning solutions everyone can enjoy.

54. Will there be a genuine community input process? The "listening session" was what I would call "we're doing this because we have to" and not designed to have a discussion. The overwhelming majority of people want no development, but I think protecting a large part by keeping open space with low density development might be acceptable to many. People are talking on neighborhood forums about how CSU has already made up their mind and will sell to the highest bidder. I hope this is not the case. I'm hoping that LEED design concepts will be incorporated and that wildlife corridors will be maintained. Traffic studies and mitigation will be of utmost importance since the only collectors from Overland in that area are Drake and Prospect. Prospect is only three lanes (middle turn lane, so essentially two lanes) from Overland to Taft Hill. Traffic will be increasing a lot, especially with the housing development going in on the NE corner of Drake and Overland. I hope CSU does right by the community, even though they have shown they don't really care about community input since they agreed to "listening sessions", probably to avoid conflict.

55. I think the area needs to be developed to reflect the best of permaculture systems and values especially given we are supposed to be an agricultural school and have been an agricultural area that has been encroached upon by development that does not reflect consciousness about the fragile bio-system we live in that includes the air which has become painfully poor due to traffic and lack of development of a public transit system of consequence. I would therefore suggest an intentional community with gardens and housing and entertainment and shop services that demonstrates environmental acuity. Such a small example of this kind of system has been developed in Buena Vista and could be used to model this project. I can only hope you would consider this given the evidence of environmental decline that has occurred with the developments presently and has further created an imbalance in all socioeconomic strata.

56. Please no housing!!! The building that is going on in this town is sad. Any little piece of open space is being turned into something. Soon there will be none left. Please turn it into a natural area.

57. I currently live in The Ponds subdivision, close to Hughes Stadium. I plead to keep the property as a natural area/open space (maybe with an event center), and to NOT develop housing. This property has a long history with Fort Collins as a natural area and connector to other open space. Fort Collins is often on "best place to live" lists because of the mindfulness put behind our natural area planning and open space opportunities. There is value in keeping this property natural, and contributing to the quality of life of its CURRENT residents. Sacrificing the property to the highest housing develop goes against the characteristics and qualities of what makes Fort Collins great.

58. This property is one of the only remaining areas along the foothills in the City. It is a gem! Please don't add more housing here to an area that has much more potential. Selling this land that CSU acquired for nearly nothing to make a huge profit and going against what the community wants is NOT the answer. No one that lives in this area wants more house here. It will affect traffic, light and noise pollution and overall enjoyment of our natural areas and open spaces. Please try to be more conscious of what is best for our community. As it is now, Fort Collins citizens think CSU is only
thinking of themselves -- please prove us wrong. Everyone I talked to (including myself) that attended the community listening sessions believe that our voice doesn't matter, that CSU will do whatever is best for their pocketbook and that is their only motive. Prove us all wrong. Do the right thing. Be a hero, not a developer of open space. Don’t ruin the beauty of our community and upset citizens with another greedy choice. Sell the land to the City for a fair price for natural areas or recreation. Don't pack a bunch of housing in this area. We don't want more housing in this area. Please, do something you can be proud of for generations to come!!

59. I am most concerned about the plan to handle the increase in traffic and people in this area. I am not a proponent for more congestion, foot and vehicle traffic and possibly more crime. I question the true motivation of CSU in this endeavor believing what they are most interested in is increasing revenue and influence for the university. Please consider continuing to keep the area a low key residential area. Fort Collins has plenty of growth in other parts of town and the city is not keeping up with infrastructure needs to support that growth.

60. This land was purchased with public funds, as CSU is a state school. The idea that it can now sell this land, for profit, to a developer and not pay taxes on the property is absurd. This land, which is bordered by City of Fort Collins Natural Areas, should be sold back to the city and remain public property. Adding housing in an area set aside for outdoor recreation would be a huge, irreversible mistake and one that will forever decrease the quality of life for all Fort Collins residents and visitors who now are able to peacefully access and enjoy the adjoining property. There are plenty of areas already under development that are in much more logical locations to build housing, and ones with more correct property tax status. If CSU were to lease the land, it would therefore have to provide all emergency and support services as the City and County are not receiving property taxes to fund such support. This land should be returned to the City of Fort Collins and the city should decide how best to use it. That’s the only course of action that is reasonable.

61. Despite the neighborhood meetings and online feedback forms, I fear CSU has already made the decision to develop this land for some kind of density housing, commercial use and/ or lease it to the highest bidder for development, no matter what the impact on the environment, water, land and neighborhood community. I live in a nearby neighborhood to Hughes Stadium. PLEASE do not make the old stadium and land into more housing with a retail mini mall! Leave open space around Hughes and if the land must be used, then limit use and buildings for one of CSU’s horticulture or green land management programs. Let’s not add more density and stress to the land and water resources that we already have. We don’t want Overland Trail to become a 4-lane highway for all the traffic! CSU is supposed to be the 'green university' so how about bringing those green concepts to this opportunity in an innovative way that benefits this particular environment, Horsetooth reservoir and Fort Collins? The idea of CSU developing some kind of housing for their low-paid employees is ridiculous as CSU should not be in the business of real estate development.

62. My first choice would be to keep it an open space. Keep Fort Collins unique and beautiful. Second choice, sell it back to the City for the cost of demolishing the old stadium. The city could work with the CSU Design program and students in landscape architecture to design a sustainable city-owned recreation center on the current stadium footprint. CSU could attract high quality
students to these and other programs by using this as a demo project and the City would benefit from a state of the art recreation and art center that serves the public and preserves surrounding open space.

63. This area should be kept as open space/recreational. No houses, condos, or development of any kind other than hiking/mountain bike trails. Please keep me informed as plans progress.

64. Please don’t put more low income housing here. Keep it as beautiful open space!

65. I am strongly against housing or music venues. I realize CSU wants to make money. I hope the university also considers the burden on city infrastructure that housing or music venues would create. Many homeowners have intentionally chosen this end of town for its lack of traffic and/or noise. Low income housing may cause property values in the area to drop. We need to consider open space management. We need to consider environmental concerns. I pray city officials will speak up and university officials will seriously listen.

66. The west side of Fort Collins suffers the worst air quality. Adding more housing will exacerbate this. Please do not develop as high density. This side of town can’t support the traffic (even with more lanes on Overland).

67. I live on the west side of town close to the stadium. I think housing is the worst option for the city. Prospect Road is already an irritating road to drive on and adding a larger population to the west side would make it so much worse. I think the area should be for recreation, open space, park system, bike park, amphitheater. The land is located in an ideal spot for outdoor recreation. Please no housing!

68. Please do not turn this property into low-cost housing. It is a beautiful site and deserves better than cheaply built housing. The surrounding area already has enough shoddy construction. I would like to see it turned into a nature appreciation area. In keeping with the golf Frisbee course already there, maybe add a bicycle course, skate park, ropes course, etc. Make it an area the entire community can use and enjoy, not a rapidly deteriorating eyesore of shabby housing. Take into consideration how much it will cost to build the infrastructure necessary to support the addition of hundreds of people. Do NOT try to cram as many ugly, cheap apartment complexes as possible into this area. Yes, that would fit in perfectly with the housing that is already in the area but not at all fitting for the scenic setting. I especially would not like to see development such as that which has recently been built on Willox Lane (west of McDonalds). A prime example of ugly, cheap construction that was allowed to be built because the area was already ugly and economically depressed. Please do not destroy the beauty of the area that Hughes Stadium occupies. Use this area for recreational and educational purposes, please.

69. Please maintain open space for this property. We will never get it back if it is developed. We have new housing going in on the corner of Harmony and Taft Hill, housing going in on Horsetooth just East of Taft Hill. Traffic is getting worse by the day in this area and if this land is developed it will
become intolerable. I bet if the land were offered to the city, we could come up with a way to purchase it.

70. The property needs to be deed restricted to allow for reasonably priced, attainable housing only.

71. Open space is most important to me. My preference would be to keep the entire thing as a natural area, but that doesn't seem realistic from what I've read. Please, please work with City of Fort Collins Natural Areas Dept to conserve as much of the open space, trails, wildlife habitat and other natural values on this site.

72. Please, no housing. That beautiful foothills area is prime for a foothills park, open-space, watch beautiful sunsets, bike, stroll, walk, enjoy fresh clean air in a rural setting as our "choice city" was meant to be! Please don't ruin our "choice city" with more tall apartments, condos and air pollution infiltrating those beautiful foothills and Overland Trail access. Please don't let the "almighty dollar" rule and ruin your lives and ours forever. We could all enjoy a lovely, open-space park for a long, long time while we are on this earth!

73. I live in the area and would NOT like to see high density housing, nor low or affordable housing. The area already has a high level of low income housing and it is a major eyesore. The area is starting to look like "the projects" and additional low income housing will make the area worse. The area should be kept as open space or CSU botanical / green house facilities. If CSU is concerned about affordable housing for its employees, then CSU should pay its employees a better wage!

74. While I want affordable housing in Fort Collins, surely any for profit housing in place of Hughes Stadium will be on par with current rental / housing rates and therefore not affordable. I also live just off Mulberry and walk my two kids and two dogs east on Mulberry to City Park and do not want more traffic on Mulberry; if massive housing units were built West of us then surely there would be more traffic on Mulberry than already is. People speed on Mulberry, they run the red light on Bryan, they race to pass each other, none of these are helping keep our city safe and why I don't want more housing West of us.

75. I am totally opposed to housing being built at Hughes Stadium our city is being inundated with more large complex housing which impacts city streets and detracts from the charm of our city. Keep it open space!!!!

76. No more housing! Outside public pool, fitness center for families kids and/or concert venue! Absolutely no housing!!

77. I am not ok with a music venue! I live very near the corner of Drake and Overland. When they started the music for the marathon at 6:30 Saturday morning it worked me from my bed! The sound of the announcer from the football game was regularly audible in our house. I can't fathom how loud a concert venue would be, with the sound reflecting off of the hills into our neighborhood. Please, this is not red rocks, out alone in the hills. We do not want an open concert venue across the street from our neighborhood.
Those are my only two cents. Appreciate the opportunity to respond.

78. Please, please, please do not put in new housing on the stadium grounds. It will ruin the quality of life for both the people that live on the west side, as well as for the wild life that calls this area home. We have all moved to this side of town to get away from the busy side of FC, and adding a huge development would take so much of that away. It will increase traffic and possibly lower our home values, by taking away such a beautiful recreational area. We love going sledding there in the winters, playing Frisbee golf and hiking in the spring, summer and fall. Please, if anything, turn it into a music venue that will bring something positive to the area. A music venue is something that the city of Fort Collins is missing and just think of what it can bring to the city. I understand that this is business and that money is the bottom line. I guess I am just hoping that you care more about the people of Fort Collins, than you do the bottom line. Thank you for your time.

79. Housing and/or commercial development is the last thing this area needs! This part of the City is crowded and there is minimal open space and few recreational opportunities. Bike paths end on busily trafficked streets and biking is becoming increasingly dangerous. Housing development is rampant on the South side with new "communities" in FOCO, and developments in Loveland which eventually will merge into a densely populated megalopolis. One of the successes of FOCO that has drawn so many new residents, is the small town feel in a City that has so much to offer. As the population grows, and as the present population ages, more activities are needed for youth lest FOCO follow the example of so many other cities where youth have inadequate opportunities to keep them active and fall prey to drugs and alcohol, which is already a significant problem here. With increased traffic, seniors will have more difficulty getting around town to carry out their routine errands, and to enjoy the cultural events. The Old Town area, that has so much to offer, has become almost inaccessible if you are not in walking distance in the evenings and weekends. The stadium area would be a perfect location to serve both the existing and the future population with indoor and outdoor recreational activities, hands-on classes (e.g. pottery, stained glass, jewelry making, weaving), lectures, live theater, and other venues to draw people of varied ages.

80. My husband attended the first "listening" session, where it was made abundantly clear that no one associated with the redevelopment plan wants to hear concerns or opposition to what has obviously already been decided. The density of population in this area is already intense, the unique environmental area in question cannot be replaced ... yet build, build, build is all that is ever offered. It is well known that Overland Trail Road is not a good candidate for expansion due to its lovely route along the foothills. Adding congestion, pollution and too many people is a recipe for disaster. Decisions need to be made with regard to what is best for the environment and our future not the wallets of developers and CSU.

81. I am strongly opposed to the demolition of Hughes stadium with housing development. As it is, you cannot even cross Overland without an extended wait due to severe traffic. A new housing development will greatly exacerbate this problem and make west Fort Collins a gridlock just like central Fort Collins and downtown. I know that expressing my opinion will do nothing to stop this
82. I am a neighbor in the Ponds and can see the stadium lights from my back porch and have listened to the games that were held at the stadium for close to a decade, (which is easy to hear from our house). I welcome the use of the stadium as a music venue or some other public event spot. I do not believe high density housing is a good use of the property and am strongly opposed to this type of development in particular. It would have a negative impact on the adjacent neighborhoods. We already have lots of high density and low income housing in the immediate vicinity.

83. No more houses, please! We do not need more traffic, more congestion, more noise, more people on this side of town! This property would best serve the public as an open-space/park. Please help Fort Collins retain its nice-place-to-live character by not succumbing to the short-sighted "more is better" ideology! What happened to the "quality of life" view that used to be on the forefront of city planners?

84. I agree with the idea of using the NE corner of the property for CSU employee housing, as it would expand the residential housing directly north (Sumac St). I am much more passionate about maintaining the remaining land as open space, natural habitat and keeping the CSU disc golf course. I would support a community garden on the site, perhaps near future housing. I am in favor of demo and removal of Hughes Stadium.

I am very passionate about no other development on the entire site, including turning any of it into a park or adding additional landscaping. I would like to find out if the dirt parking lots could be re-planted with prairie grasses after removing the noxious weeds.

The beauty of this area and a few other open spaces is not due to resources and amenities on the ground, but in the unobstructed views of the big sky.

85. I am a 2 time CSU graduate, long time Fort Collins resident, and Colorado native. I am currently a resident of the Quail Hollow neighborhood which sits at the intersection of Overland and Taft Hill Road, very near the stadium location. I am sorry I couldn’t attend the listening session last night but I had a funeral to attend.

I would like to very strongly advocate for selling the land so that it can be preserved as open space/recreational use. It is adjacent to the Pine Ridge Natural Area, at the base of popular mountain biking trails, and is used by the City's children as a sled hill all winter. We have so much rapid development going on within our community that the qualities that make it the recently named "4th happiest" city in the nation are going to be tested. One reason we are so happy is due to our amazing open space and recreational areas within biking distance of the city and our neighborhoods.

I believe development of the property into residential or affordable housing would cause real disruption to this area due to increased traffic along Drake/Overland, negatively impact the few remaining wildlife corridors on the west edge of town, mar our views of this beautiful area, create
conflicts with long established recreational use, and necessitate expensive roadwork to accommodate increased congestion in the area.

My vision for this property is one in which the land, if annexed by the city, is designated for a natural open space and recreational area to augment our quality of life and embrace our wildlife as well. My vision includes habitat hero gardens (pollinators), a sled hill for the kids, a conduit for mountain bikers and hikers, and the like. Please consider open space and recreation and prioritize it over residential or commercial development. It isn't the right space for that and this is one of our last crown jewels in the area for open space (certainly within city limits)!

86. Let’s keep Hughes Stadium as natural of an area as possible. Our beautiful state of Colorado is becoming so over run with overwhelming population I fear it will be ruined. Please keep a little piece of paradise around for our future generations to enjoy.

87. Please leave it as open space, we really need it.

88. The west side of town is already too congested and Overland Tr/ Prospect/Drake already have trouble handling existing traffic at times. In addition, the foothills open space helps make FoCo what it is. Please do not develop it further. CSU has already gone against public opinion by building the new on campus stadium. Please do not further disrespect FoCo by selling this land to a developer.

89. Please consider not developing this area with MORE housing. Fort Collins is really beginning to lose its charm with the incessant building in almost every corner of this city. The additional traffic on Overland, being one lane, and Prospect between Overland and Taft will be ridiculous if the projected housing comes to fruition. Let's think about Fort Collins and not about lining the pockets of developers.

90. There is a lot of great Open Space along Overland, and Hughes is such an icon of our community, especially with the A-Trail there. These types of spaces are quickly getting swallowed up by development and West Fort Collins is beginning to lose what makes it special - a place to access trails, view the Foothills, and appreciate that Fort Collins is so unique in that it sits at this "urban-rural interface."

I understand the need for affordable housing, but I feel we should be building "up" closer to and more densely within the city. The development that is sprawling into our more rural areas across Fort Collins is so ugly, cookie cooker, and not the types of homes that are built to last years and conserve water and energy.

I would love to see the Hughes stay a cultural icon in some way, celebrating a natural landscape that is becoming so uncommon. It would be great to see a skate park, bike park, playground, something that can engage youth and families, or be a place for music, events and festivals - the events/festivals downtown have become so standardized and everyone feels exactly like the one before. It was so nice having events like the Peach Festival when it was still at Hughes.
91. Would really like to see this unique property left as open space/foothills buffer. A concert venue at most. The push for "low-income housing for CSU employees" seems unrealistic and unworkable in fact - a mere talking point. (Plenty of low-income housing on this side of town already. What happened to the City's vision of mixed-density neighborhoods?) More housing would affect both the traffic on limited arterials and pollution in this area. Back in the 1980s, there was concern about further development west of Overland Trail negatively impacting air quality along the foothills. (What happened to that?) A recent study indeed showed Fort Collins' pollution is worse on the west side.


93. Please take the traffic situation into consideration when deciding what to put in place of Hughes Stadium. The situation in town is already VERY difficult with very few good east-west avenues through the city. Adding additional housing would significantly impact the traffic situation. Spreading out the housing a bit more would help, but the proposed "affordable housing" would be sure to increase the traffic problem exponentially. Thank you for your consideration.

94. I am a resident of Westgate Townhomes (the neighborhood which shares a fence-line with the stadium on the north side). As a resident, I would like to offer my feedback regarding any redevelopment. I think the property should be used for open space. This area already has a very high concentration of rental properties, usually with more than one tenant, which has created quite a bit of traffic congestion during busy times and a lot of noise pollution. Also, the scenery and character of the area would be ruined if this area was developed for housing.

95. Is there a possibility that this could be used as a High School sports complex?

96. Hope CSU chooses to sell to a developer with low-cost housing in mind. Whatever CSU chooses to do, remember all of Fort Collins has to live with that choice. Thank you.

97. The Hughes Stadium property has been a fantastic resource for Fort Collins residents, even outside of games and special events. The disc golf and sledding hill are popular and trails behind the stadium are an important connection between the local open spaces. I would vastly prefer a continuation of a public space, be that open space or an auditorium. Our foothills public lands are a great draw for the city: an ugly dense development alongside the road to Horsetooth Reservoir would be a shame. The west side of town lacks the infrastructure investment and high tax base of the southeast part of town - how would the city cope with hundreds of new homes? We on the west side would like to keep things less crowded.

98. Let it return to grassland and utilize it as open space or natural area for all residents. I'd be happy if the disc golf course got an upgrade too. NO CONDOS!!
99. This property should NOT be used to build more housing or residential areas. Keeping this space open and natural is crucial to the environment of Fort Collins. We are known for being natural and agricultural and we need to keep it that way!

100. As a CSU Alumni 1990, 2000 and a thirty year Fort Collins Resident. The Hughes property should be donated to open space. Located next to Dixon reservoir and a key view shed entry into Horsetooth Reservoir the last thing the City of Fort Collins needs is more apartments right there. It’s tragic that the decision to develop this has already been made any community engagement is a farce, developers clearly drive government and approval processes. Maintaining livability and desirability of current residents means nothing.

101. It would be great if CSU could convert the Hughes Stadium property into open space or a recreation area. With the neighboring natural areas, it would be beneficial to keep the space free of residential housing units. The traffic and light pollution would impact the surrounding natural areas in a negative way. With so many areas of Fort Collins filling up with houses, we have very few real open spaces for CSU students and city residents to enjoy. If given the opportunity, I think it is worth preserving this space and the surrounding natural areas.

A second idea would be to convert it into a natural space that could be utilized by CSU classes, so that it has some functionality for the school. Some extension classrooms or laboratories could be built, that would preserve some open space while serving an academic purpose. This would not negatively impact the other natural areas as much as residential housing, and could provide a fun learning environment for students.

102. The space around Hughes Stadium should be developed and maintained as open space/recreational space. It is such an important space for those uses currently- both the Frisbee golf course and the space around the stadium. Coyote, deer, and other wildlife are also frequent users of these spaces and with the proposed impending development on the corner of Drake and Overland and ever-expanding development filling in space northwards on the west side of Overland, having these wildlife and recreation areas on the edge of town are important to support those animals and prevent them moving even further into town than they already do. Please take a long look at the current use and its enrichment of the current community and its importance ecologically during this process. IF the option does not exist for the land to be used as open space/recreational space it should be used for something innovational and beneficial to the community... some type of community garden with family programming...tiny house cohousing... something that isn't just more housing or businesses, and something that honors the importance of this space.

103. Bikes

104. You should build a BMX race park!

105. Want me a BMX bahk park pls and thanks.
106. I am a homeowner living on Overland Trail. I am concerned that the Hughes stadium land will turn into yet another large housing development. Please do not litter the west side of town with more crumby condos, automobiles, noise, pollution, and traffic.

There needs to be a wildland-urban transition from the foothills to town. The space between the foothills and Overland Trail should be preserved for this purpose. Filling it with housing would be a desecration to the landscape and to the community. I would encourage the City of Fort Collins to act reverently and turn the Hughes space into public open space or natural area.

107. Please do NOT build housing on the Hughes land. This will destroy the open space around that area! This is a great collaborative opportunity for the City, County and CSU to work together to keep this land undeveloped. So many possibilities, including an area that students can use for environmental studies, etc. The idea of all of those homes on that land makes me sick. Keep this land as some kind of natural open space.

108. Preserve the existing parking as a renewable energy hub with wind/solar energy hookups provided by the city of Fort Collins for short/long-term lot rental and fee-based charging of electric vehicles, RVs and tiny homes in support of local tourism by providing an Overland Trail alternative to U.S. 287 through Fort Collins. The existing field could also be preserved and rented as a soccer field for both men and women at the collegiate/olympic/professional levels by installing metal bleachers after the concrete bleachers are removed. The existing waste removal infrastructure could be used to support waste removal for both the soccer field and renewable energy transportation hub. Women’s soccer in particular is looking for non-artificial turf to play on and the high number of days of sunshine we experience makes Colorado an ideal location. The existing stadium is an ideal location for promoting local tourism with access to both the Poudre and Big Thompson canyons via Horsetooth Reservoir. The parking could also be used by alumni and family members of CSU students for short-term rentals and to provide long-term rentals and affordable housing for CSU employees, students and the homeless.

109. I would like to see this turned into some sort of active/sport outdoor recreation area, with a mix of things like the Frisbee golf course; running and biking circuits (like the Valmont Bike Park in Boulder); maybe a fitness park or open-use courts for yoga, tai chi, and other meet ups/classes; and most of all, fitness stairs that go up the hills (Like the Lyon Steps in San Francisco or the Baldwin Hills Overlook in L.A.). This all would act as both a popular tourist destination and a spot for locals to enjoy the outdoors. You could even zone in some commercial pads to allow cafes, outdoorsy shops, bike repair shops, food trucks, etc. to serve the type of people frequenting this area.

Lyon Steps: https://urbanhikersf.blogspot.com/2013/05/wordless-wednesday-lyon-street-steps.html
Valmont Bike Park: https://bouldercolorado.gov/parks-rec/valmont-bike-park
Outdoor fitness court: https://nationalfitnesscampaign.com/the-fitness-court1/
110. I’m a homeowner who lives at XXX Ross Drive Unit XXX, which is directly across from Hughes Stadium.

As a homeowner who has lived across from the stadium for four years, I am very interested in seeing the land be used for open space/recreation. I believe using the land for open space/recreation is the most consistent with its current context. Maxwell, directly to the west of the stadium, is used by walkers and hikers. The disc golf field is utilized by the community. And, the grounds of the stadium are home to hundreds of dog walkers like myself. My two beagles and I walk the area at least a few times each week. Further, dozens of families with children use the area for sledding in the winter. These are only a few examples, but they illustrate that the area is already being utilized recreationally on a daily basis by multiple different groups within our local community. Developing the area for commercial or residential use would be a loss for walkers and hikers, disc golfers, those with dogs, and families with children, among others.

111. Big mistake to build the new stadium. Hughes could have been renovated at a much lower cost, but that wasn’t good enough for the bigwigs running CSU.

112. Ask CSU to annex land back to the city then let city turn the land into a beautiful golf course.

113. Of course this Stadium needs to be torn down and become open space to preserve for future generations! Look at the map, it is surrounded by natural areas, lakes, the reservoir, trails, the historic A on the hillside. Think of the legacy we will be leaving here. Do we as a community want to pass down a strip mall with a 20-year life, or open space and trails for people to enjoy for many decades to come? ICON may not like this idea because they are builders and they don’t make money from this, but those who came before us had the foresight to save land as open space rather than sprawl and pave in every direction, and we are grateful, let us show our gratitude by doing the same. Fort Collins resident for 18 years!

114. Hello,

I’m writing to provide feedback on the Hughes Stadium property, as I could not attend the Neighborhood Listening Session that was held on the 20th.

As a home-owner/resident in the immediate surrounding area to the Hughes property (and as a multiple small business owner here in Fort Collins), my hope is that the property will end up being used for some type of recreation; such as a park, an open space with trails for walking/hiking or especially as a place for athletes to train such as an athletic park or even a cycling velodrome. At the very least, whether the property is leased or sold, I hope that whatever company takes over its use keeps that area’s wide-open landscape and will be mindful of the environment, as it already seems very wasteful to be tearing down the stadium (which, based on my understanding, will be part of the eventual plan) as opposed to re-purposing it as some type of outdoor athletic/training facility, for example.

As Fort Collins is already becoming drastically overly congested and housing developments...
(apartment buildings, etc.) are being squeezed into what feels like every inch of space that we have left, having something that is open and natural would be great to keep Fort Collins a destination for people who want to get out and explore. I talk to more and more people over the years that think about leaving Fort Collins (including myself and my family) due to the increased congestion, constant roadwork and construction...which is unfortunate. So I think something that keeps the beauty of the natural area on that property would go a long way in terms of sustainability for the community.

I'm not sure what ideas or proposals might already have been shared at the listening session, but thanks very much for your time and consideration.

115. I am a 46 year Fort Collins resident, CSU Alumni and a graduate of the College of Natural Resources and believe that if CSU is truly the “Green University” they should turn the site into open space. I intend to fight any other option.

116. I agree with the idea of using the NE corner of the property for CSU employee housing, as it would expand the residential housing directly north (Sumac St). I am much more passionate about maintaining the remaining land as open space, natural habitat and keeping the CSU disc golf course. I would support a community garden on the site, perhaps near future housing. I am in favor of demo and removal of Hughes Stadium. I am very passionate about no other development on the entire site, including turning any of it into a park or adding additional landscaping. I would like to find out if the dirt parking lots could be re-planted with prairie grasses after removing the noxious weeds. The beauty of this area and a few other open spaces is not due to resources and amenities on the ground, but in the unobstructed views of the big sky.

117. The VAST majority of the LOCAL COMMUNITY does NOT want the land to be developed into even more homes and/or condos. Part of the reason we bought our first home in this neighborhood is because it backs up into open space. Huge numbers of citizens currently use the area as a recreation area/open space not to mention it is a major gateway to Horsetooth. CSU is supposed to be pro green but they aren’t. If CSU sells this land to developers, I will officially be disgusted to be a graduate. I will never donate money to the school and my children will not attend. I know countless people in the area who feel the exact same way. CSU does not have the best interest of the citizens of Fort Collins in mind. They’ve turned into a greedy institution. They should think a little bit harder about the long term effects of this decision and not just the financial gains. Hopefully the decision hasn’t already been made and you aren’t just taking input from actual citizens as a formality. I will say that most people sadly think this to be the case. All eyes are on you, CSU. Don’t blow it.

118. Please no retail or homes. The traffic is already going to be increased with the new homes going in on Drake and Overland. I really wish someone from CSU lived over in our quiet neck of the woods and realized how awful it will be to add thousands of more cars to this area. There really is no respect from CSU regarding the quality of life in this town. Listen to the neighbors that will have to live next to this development. I would suggest keeping it an open space or a concert venue. The temporary use as a concert venue would be far less hideous than housing. It wouldn't be a concert
venue nightly so dealing with extra cars would be the occasional thing instead of daily (like a development).

119. I'm a professor emeritus at CSU. We live very near to the Hughes Stadium area. Very broadly, my recommendation is to create most of the area around Hughes into a friendly and usable open space. There might well be some spaces for small but needed housing projects. But fundamentally, I urge that the area become a public park. A generous park for future residents of Larimer County would be precious and broadly appreciated. To me, a smaller public Children's Park might also be considered. Altogether, instead of aiming at strictly practical goals to please us now, we should think of a gift for the next generations to our remarkable community.

120. PLEASE - NO housing at the Hughes property!!! I am a local resident of the area and the consensus is that we DON'T want more housing, more traffic and more property development! The traffic has greatly increased on Overland Trail road, as well as W Mulberry and W Drake that connect to Overland. Many are concerned about additional pressure on the land, water resources and air quality. So, CSU - NO housing, please!

121. I am aware that FoCo needs more low-income / affordable housing, and hope that will be included in the re-development. The Drake & Overland Trail intersection is already very busy and dangerous. It will need to be improved when the Hughes stadium property is redeveloped. What is the plan for this? Will traffic lights be installed? Also, I am concerned about traffic on Drake and Overland Trail. Will additional bus lines be provided to reduce traffic? I believe they are needed. Will there be any efforts to mitigate the traffic noise from Drake and Overland?

122. I have read the feedback thus far and requesting the property be kept as open space is overwhelming. I hope CSU is listening this time.

123. Why doesn't the university designate the land for preservation of natural grasses and wildlife? That would go a long way to make peace with the town and might make it easier to work with them later on!

124. I'd love to see the area become a natural area. There is already too much new development in front of Horsetooth, so it'd be nice to have some natural space preserved there.

125. The Hughes stadium property is very special in that it is next to existing open space, and a tremendous opportunity to expand our outdoor recreation opportunities. As FTC grows, the existing trails are becoming overcrowded. Selling this land to a developer is the wrong long-term decision. Please make it into open space.

126. The overall property could showcase two of the most compelling and historic areas of study at CSU: Sustainability & Agriculture. The entire property can become a mix of housing surrounding a central gathering place located where the existing field is today. This central gathering place can be a mixed-use space, activated as a pedestrian village lane, greenspace, and/or farmer's market facility. The existing stands on both sides can be re-purposed into LIHTC affordable apartments as
well as market-rate condos that incorporate the unique concrete support arches on the west side. There are several examples of this adaptive reuse in Europe, using old soccer stadiums. Surrounding the village that was formerly the stadium, community gardens as well as CSU experimental gardens could exist side-by-side, sharing infrastructure. Additionally, value-added agriculture ventures could be incubated, such as a hop farm, commercial kitchen incubation, finished retail products, etc. Finally, a mix of housing types is essential (including tiny home village), and LMN zoning would seem to be appropriate here. Ultimately, the former Hughes Stadium property could become an agricultural village, designed and developed with advanced sustainability techniques.

127. Hi - I live within a mile of Hughes, and would love to see it preserved as open space. If not, please please please be sure that the light pollution from whatever is developed does not shut down the Drive-In Theater. The owners have said before that if Hughes is developed, that the lights would be the end of the theater. Let's keep this piece of history alive and plan any development as dark-sky approved.

128. Please keep it as open space or turn it into an amphitheater to preserve the Colorado beauty and heritage. Thank you!

129. The open space backing up to foothills is unique and of high value to the entire Fort Collins community... some combination of gardens and open space for mountain biking, hiking, dog park, etc.

130. Please preserve the area as an outdoor recreational multipurpose area. We moved here 10 years ago and were impressed by the open fields throughout the town, the great parks and the ease of driving in Fort Collins. I was so inspired by what I thought was one of the most stunning settings for a stadium. Now every vacant lot is either filled in or has a yellow sign to redevelop. The growth here is exponential as is the traffic. The town is getting over run with cheap LEGO block apartments and housing developments at the expense of green areas. There is very little to be excited about here. The town is getting uglier by the day.

In addition, the city is already one of the most polluted cities in the country and west Fort Collins has the worst air quality in the city limits. The brown cloud and the diesel smell is getting worse, let’s not add even more cars and houses. There are so many great recreational ideas for this area. I would like to see the city put in a cross country track in the winter. I ski at my local park and would love to have a groomed path. We could use more winter sports here. Please don’t pave over this gem of an area. Thank you. Please keep this gem of an area natural.

131. A considerable sized music venue would be a great fit. It would also help bring revenue to the city since anytime a major act is in the state we have to travel to Denver area. There is no decent venue in northern Colorado or within the Wyoming area. The location also has enough space to support parking for a large venue as well.
132. I feel the powers that be should be thinking outside the box. The suggestions people have
provided so far are typical. Housing in Fort Collins is not and never will be affordable for most
people. Open space. We have enough. Fort Collins certainly needs much more than it has to make
it an appealing place to live, in reality, rather than in hype. In any case, my idea for that space is a
bit unusual and maybe not practical, but would hopefully appeal to many people. I suggest that the
space be turned primarily into a bicycle velodrome. This might appeal to Olympic hopefuls. Also, I
imagine there would be space enough for an outdoor roller skating venue (ice skating is too
common) and also a skateboard park. Maybe you could throw in a full size running track. There is a
sad lack of activities here for young people and a skateboard park might be something kids would
really use plus give them physical activity.

133. I'd love to see a music venue replace Hughes stadium ... it's a perfect location.

134. I am a long time resident with a family in Fort Collins. I believe Hughes stadium should remain as
recreational/event type facility. The open space on all sides of the stadium are an integral and
priceless commodity for the City of Fort Collins. The trails have become a major recreational area
for the town and is getting more traffic each year. I am afraid if this property is developed into
housing that the trail system will be overcrowded and will lose its appeal to many people. Not to
mention the traffic on Overland. I believe the city should purchase this property for a once in a
lifetime chance and provide a park/open space connecting a continuous area of open space to the
north and south.

If it is developed into housing, then they should be mandated to upgrade and enhance the entire
trail system to allow mountain biking and hiking on separate trails since it will surely become
overcrowded. This is the gateway to the foothills of the Rocky Mountains, please don't develop it
into housing and ruin this area of town? Go east or north for more housing, there is plenty of open
space. By the way, there is a dam just above the property, do we want houses below it? I hope
profit hungry developers don't get their way with this property, if so, this will be a big hit to the City
of Fort Collins way of life. Thank you.

135. I think this is the perfect opportunity to move the basketball games offsite; Moby should be
moved to the Hughes site. Think of how much better access there will be, and far fewer parking
issues. This would be a great opportunity to showcase our foothills to returning Alumni. There is no
good reason to keep Moby on campus; it should be torn down in favor of a parking garage for the
football games.

136. I very much liked (and copied) this entry in the Coloradoan on 11/30/17. Thanks for asking!
A mixed-use, walkable/bikeable neighborhood, not just residential, with a grid of narrow streets
(with) bike lanes, easy transit to ... main attractions of CSU and Old Town, buildings close to the
sidewalks like they are in Old Town, pedestrian-scale infrastructure like lighting and bike racks
rather than gigantic wide open parking lots, and almost everything a community would need within
walking/biking distance, including an elementary school, restaurants, houses of worship and a local
market. With the huge size of this location, if density is done properly, it could serve tens of
thousands of people and allow Fort Collins to grow wisely instead of sprawling all the way toward Wellington.

137. I would love to see this area developed into an amphitheater as a venue for music and other entertainment. It is in a beautiful location nestled against the foothills. The music scene in Fort Collins has always been big. Being a college town with a diverse population, it is a natural fit. I think it would also be a great venue for events like New West Fest, the 4th of July Fireworks show, Craft Shows for local artisans during the warm months. Possibly a Colorado Winter Wonderland 2-3 day event with local shops having booths selling Xmas gifts and showing off what their shops sell in their Old Town stores and restaurants. Maybe even have a skating rink for the event. Very quaint, very Colorado. Stuff like this makes people feel good, puts a smile on your face. So, it could be used as a multi-use venue with lots of local events mixed in with some small - medium sized concerts featuring nationally known artists. I am envisioning a multi-use amphitheater venue that offers a variety of music concerts with special local events throughout the year. There will ALWAYS be a need for more affordable housing. Please, let’s use this this area for something special.

138. Starting as a freshman at CSU 23 years ago, I have enjoyed the open space around Hughes Stadium for walks, sports and a quiet place to read a book. Now as a resident of Quail Hollow, just across Drake, I would be heartbroken to lose that open space. Please help protect our wildlife, dark night sky, quiet atmosphere, and decent traffic flow by keeping the old Hughes an open area. I am in favor of selling to our Department of Natural Resources and other proposals that keep the area as natural and wild as possible.

139. Many residents in this area's highest priority is natural features, trails, wildlife, and open space. Please fully explore a sale to the City of Fort Collins Natural Areas Department so that it can be preserved as open space. The department has a large conservation fund and can pay fair market value. I am a neighbor, and the reason I chose this area is the access to the outdoors. Please don't pave paradise! This area, on the East side of Overland is already low-income, high density housing. Fort Collins doesn't need more housing, it needs open space preserved for future and current generations.

140. If Hughes will not be used for a music venue, as the plan is already to demolish it no matter the cost, then please let the land be incorporated into Maxwell Natural Area to provide more space for wildlife, natural resources, hiking trails, and the beauty of what most of us moved to this area for. As the City of Fort Collins continues to sprawl and become overly developed, the last thing we need is more housing to cram an overabundance of people in our idyllic town. Please think about the impacts on the natural environment here before adding more concrete and asphalt to our already warming globe.

141. Please preserve the open space and nature that is present today. Housing, commercial development, and traffic will not preserve what is disappearing in our landscape. Taking down the stadium will allow for continued use of the area for low impact recreation in a natural park setting. The area is a part of the foothills which continues to be encroached upon. Preserving this landscape will allow individuals and families to enjoy the reason why we will allow choose Colorado to be our
home. Please consider what our future holds. We can travel to Denver to see developed landscapes. Let us keep something natural and beautiful.

142. Not housing. Not housing. Not housing. Not housing. Not housing. How is it that the stadium location is too far from campus to host football games 6 times a year, but ideal for housing? Tear it down and put in a park and open space. As it has been used by west side residents for 299 days a year.

143. I applaud CSU and the City opening an idea forum for citizens. Wish they would have done same for the on campus stadium. That blemish and personal failings by CSU to do the right thing put a damper on our home team spirits. Since 1978, we have enjoyed going to games at Hughes Stadium. More than the lure of watching the home team was the experience of that great scenic location and the chance to connect with friends at the tailgating area. I doubt very much that we will ever go to the new stadium.

I appreciated the suggestions by the people who live close to that area and many wanted to retain the natural beauty as augmented by trails and maybe a pond or park, or nature center, bike trails so it feeds into the pride of Fort Collins, which is its parks and trail system. I also think the idea of some quadrant allocated to employee housing or low income housing would be a nice marriage of creating a place for low income people that anyone would be proud to enjoy. I know of a small group in Fort Collins wanting to design a community for an underserved market.

I love Fort Collins and as a long time strategic thinker for HP and for other large organizations, I see opportunities for Fort Collins to create examples that other states follow. Stuff like closing the gap between industry and education, diversity appreciation, strengthening business and market ecosystems are just a few examples of the scope of my involvements. I’d love to see the land around Hughes Stadium used to increase the value of living here by allocating a large portion to something natural.

144. My family and I have lived our entire life in Fort Collins and we love this city. We are supportive of CSU as a key component of the Fort Collins community. The city needs to manage growth and part of that is the continuing encroachment into our foothills. We would prefer to see the area become open space to also support our wildlife. Please consider our environment by using the land for open space. Thank you.

145. I live in the Ponds Neighborhood and I moved there because of the easy access to the sledding hills at Hughes Stadium and the bike paths and running paths. I am hopeful that whatever plans will keep some of that resource for the community. I know my sons will love the Frisbee golf as they grow older. I wanted to make a suggestion of gardens and perhaps a hops field for your brewery classes and degree. I read in a magazine a few weeks ago about a small college in Texas that turned their football field into a vegetable and spices garden. https://www.pbs.org/newshour/show/one-college-turns-football-field-farm-sees-students-transform

The school now makes most of the vegetables that the school uses for its student meal plan (which
saved on costs to the school) as well as allow the students to sell the left over vegetables at a farmers market. The students loved it because it was a peaceful place to connect with the earth and the out of state recruitment went through the roof as students really identified with that type of atmosphere.

You also have significant land and you might be able to grow your own hops or grain for the beer classes and you might also start to be a leader in developing new hops in this field. I think that would fit in with the Fort Collins community and you might even be able to get sponsorship from the local breweries to assist in this process and in keeping up with the land. It would be another good partnership that you have with the community and the business community.

146. I think it would be great to keep a portion of the stadium as a music venue. This would create a unique venue and would also preserve part of the history of the site (being a stadium). Being a unique venue with a scenic view, this would be a draw for people to come watch a show. People would also be able to recall their times spent at the stadium. Additionally, parkland surrounding the stadium could act as a sound buffer and provide recreational opportunities.

147. Public bike park similar to Valmont bike park in Boulder. Funding could be raised publicly through donations/grants and maintained through city employee structure and volunteers. In addition to bike trails and obstacles, a playground and skate park could also be integrated to appeal to more recreationalists. There is plenty of space and enough interest from the Fort Collins bike community to make this a reality. The worst thing would be a high density housing development. Look at what Boulder had been able to accomplish with Valmont...while keeping it public.

148. Instead of selling the land to a developer at a discount for affordable housing, why not sell it at fair market value to the city and keep it as a natural area or open space? Use the additional money from the sale to raise the pay of your employees. $10 per hour is pathetic in this day and age. My college work study job paid more than that 20 years ago. CSU should be ashamed if their pay is that low.

149. I do not agree with the idea of building housing on the Hughes Stadium property. I don't think that Overland Trail can handle the traffic increase that would happen as a result. At best, I think the space could be reserved as a natural area. I know that the city can afford to purchase and maintain the space. Most people I know who live on the west side of town enjoy hiking the trail behind the stadium that is part of the Maxwell Natural Area. If the stadium must be demolished, perhaps it could be replaced with a live music/events venue. Fort Collins is in need of a larger venue that would attract more diverse acts than theaters such as the Aggie and Lincoln Center. As the population continues to increase, acts that attract larger audiences will be interested in making a stop in Fort Collins.

So I believe the ideal use of this land would be a mixed use live music/events venue surrounded by a natural area complete with a disc golf course, gardens, a play area, a dog park (which is greatly needed in this area) and scenic paths winding throughout. The paths could be open to pedestrian and bicycle traffic. The gardens could include community vegetable gardens as well as a home for
native flowers and plants such as are in other parks in town. Some of the space could be left open for public use such as exists in City Park. Of course in the summer it could be utilized as an outdoor event space. Having a music venue on the property could help fund the Parks department if operated by the city. As someone who lives near Hughes Stadium I have seen the deer, coyotes and other wildlife who frequent the area. I shudder to think that they would never be seen in this area again if it became built up like the east side of town.

Please respect all of what makes Fort Collins great: the nature, the wildlife and most of all its residents. Keep Fort Collins the unique place that it is by refraining from building housing and paving over one of its most scenic and enjoyable pieces of property.

150. I have lived by the stadium for 16 years and would like to see a plan that is best for our property values and traffic situation.

151. Open space, no homes at all. And please no homes or housing. Make it like Spring Creek.

152. Open space, bike and walking paths like Spring Creek Park down the road. A large fishing pond, playgrounds, mountain bike paths, outdoor concert venue, Frisbee golf course, 9 hole chipping and putting golf course. No more homes or student housing please.

153. In favor of expanding CSU equine program or a large community garden, maybe a bike trail as well. NO HOUSING WHATSOEVER.

154. Please do not consider high density housing! Natural areas, horse trails, biking, hiking should be explored! We do not need more high density housing. Consider mixed use natural areas and park areas to be used by the public.

155. I believe that CSU should follow the example of Indiana University and use the site of the stadium for an arboretum. Of course the site of their former stadium was on campus.

156. First, thanks for soliciting feedback on this process, and making it easy to do so online. I live about a half a mile from the entrance to Hughes Stadium. This area is a gorgeous natural space; as other have mentioned, that’s what made Hughes Stadium such a wonderful venue.

It’s a unique, often-photographed part of the FoCo foothills that make FoCo (and CSU) a wonderful place. With that I mind, I ask that you prioritize protecting the natural character, and unique ecosystem, of this area. The sale to the City of Fort Collins as a natural space would be the best option. I think a park emphasizing trails could mesh nicely with the area as well.

157. The land Hughes is a special place, a scarce resource in this town. It’s still mostly open, and right by the foothills and other wonderful open spaces. It’s one of the little things that makes Fort Collins, the city that CSU calls home, a great place to live. The trails, meadows, and running access have given the public a place to recreate and enjoy nature.
Keeping this property open to the community in some fashion- an amphitheater, an open space, a garden, so on and so forth- keeps this special spot in town part of the vibrant community that makes CSU a great place to study. Developing new housing that shuts out the public & nature, reverses that.

I'm not opposed to housing development. But there are many other places to build housing around town, on land that is not quite so special. Please consider how this property can be kept a part of the community, rather than a development of ritzy housing that cordons off ever more of the foothills for the enjoyment of a few.

158. I know CSU does not want the property, but for years they held there cross country meets there. I think it should stays as it is, minus Hughes Stadium, for cross country meets for CSU and for the local high schools. CU in Boulder has a nice piece of open undeveloped land that they use for cross country meets.

159. My suggestion for the property is to do an exchange with the Gardens on Spring Creek for their property. Build your housing at the Gardens property as that area is already tuned in for additional traffic with the new stadium. Set up the Gardens at Hughes location with more room for the Gardens and build an amphitheater as part of the Gardens there. The Gardens has been fighting to put a music venue in anyway.

160. In considering options for the Hughes Stadium property, my priorities are:

1. Open space. Close-in open space and wildlife habitat is critical to a quality community. Ideally the entire site would be set aside in perpetuity, administered by City of Fort Collins Natural Areas or Larimer County Open Lands program, with restoration efforts to jumpstart natural processes on disturbed portions of the property. If not the whole acreage, let's set aside the bulk of the property and consider the following priority on a small portion . . .

2. Cluster development. If some sort of housing and/or commercial development is deemed part of the property's future, smart design must allow it to be clustered on a small portion of the property, ideally adjacent to existing development and roads, so that priority 1 above can also be accomplished. Clustering can reduce infrastructure costs, making development more affordable. I'll hold up my own neighborhood as an example of what's possible. Greyrock Commons, in NW Fort Collins, is a 16-acre site. Zoning would allow 30 houses to be built on 1/2-acre lots, fragmenting the entire site. However we chose to cluster the 30 houses on about 4 acres so that 75% of the property could be preserved as open space. Over 20+ years, we have worked to restore native vegetation and have seen extremely positive results in terms of diverse habitat and wildlife. The approach we took benefits residents, neighbors and the environment.

161. Open space, open space, open space! Once we develop that land and that view we will never get it back. But why are you asking for our feedback? Tom Milligan, VP of External Affairs was already quoted as saying that the space would definitely be "monetized", which means that leaving the land open and natural really isn't an option to CSU because it doesn't generate income. His
quote in last Thursday's Coloradoan ("We are going above and beyond what is traditionally done in terms of gathering input.") indicates to me that they are more interested in saying 'See, we went out of our way to ask for input.' than 'We will take your input seriously.

162. I am a 24-year resident of west Fort Collins not far from Hughes Stadium. For 22 1/2 of those years I was also employed as a Research Associate at CSU. As for the fate of the stadium property, I think the last thing most residents want to see is more development. Keeping most of the property as open space and/or park land would provide the greatest benefit to the citizens of Fort Collins. However, I am acutely aware of the high cost of housing in this region and the difficulty many CSU employees have affording a place to live. Therefore, perhaps 25% or so of the property could be developed as affordable housing for the CSU workforce.

I sincerely hope the University will take the community's input to heart, rather than completely ignoring it as they did when the decision to build the new stadium was made.

163. Do not build housing! Build housing out east or north of Wellington. Our traffic situation is a huge problem already. Either leave it open space or a multiuse recreation park. Field space for athletics is hard to find and at a premium. So an athletic park w multiple fields for soccer, lacrosse, football, etc. would be nice. Hope CSU does not decide to get greedy and develop into housing. I am a CSU alumni and am supporting the new stadium and all the other new upgrades to the University. But sometimes it feels like they want everybody to buy in to their projects but don’t really give back or share their facilities.

164. This is an opportunity for CSU and Fort Collins to do the right thing and not blindly follow the developers($). This area is far too important to the community to just throw up more condensed housing to the detriment of all else. We as West Fort Collins residents would appreciate a truly respectful community and nature oriented approach!
Hi Rits,

I would like to submit the following documents to be part of the records for tonight's City Council meeting. I would like to make sure that each City Council member has a copy of these documents for themselves.

Thank you,

Melissa Rosas
Mayor Troxell and Ms. Stephens,

I am writing to say thank you for following the processes with the ethics complaint that was addressed to you. I am sure this was not a pleasant letter to receive and have to deal with. However, I also hope you can see from an outsiders perspective how members of the community need reassurance of fair dealings especially in reference to this very convoluted process. Both CSU and the City have not been forthcoming with many things in this process and the community is not very trusting at this time. I appreciate that you are following proper process to ensure that doubts can be resolved and delaying the voting process until the process can be conducted appropriately.

As a long term citizen of Fort Collins, I have witnessed a LOT of change over the past 35+ years that I have resided here. What I have always loved about Fort Collins is the “home town” feel and the comradery that seems to be present everywhere. Even with the significant growth that I have witnessed, I still feel the warmth of community members and feel fortunate to have been able to grow with the town professionally as well. Although I am FROM South Dakota, I consider Fort Collins my “home”.

My mother was a Council member in her community in South Dakota for over 20 years. (I cannot even imagine). Because of her experience, albeit in a much smaller town, I asked her what her actions would be if she were in your situation. She mentioned that she would feel uncomfortable representing her community whether or not there was LEGAL or CONTRACTUAL conflicts. She felt that even with possible SOCIAL associations, she would recuse herself from voting on this issue. Over the years, she had to recuse herself from many issues because she never wanted any press about bias or conflict.

There is a lot of dissention and disagreement with the Hughes issue and I know I don’t have to even mention that. I understand that you also are passionate about growth in the community and making Fort Collins an even better place to live. That is the reason you have both been placed into your positions. The people of Fort Collins entrust you to do just that and feel you have been successful.

Mayor Troxell, I heard your comment on your desire for a transparent government in Fort Collins and I appreciate that. I am hopeful that as things progress on the Hughes issue that we will see that. Honestly, it seems to not be the case to this point. I am aware of too much that has not been disclosed and that has been “secret.”

I am aware that there were “calls to action” requesting attendance and support of the City Proposed Zoning at the November 19th meeting from both the realtor board and the Chamber of Commerce. What I find both interesting and extremely disturbing was learning of an email BLAST
sent out early Tuesday afternoon between 1pm and 4pm that notified these agencies that the Hughes topic was not going to be discussed that evening. I am not sure why these organizations were privy to content and actions of the Council that had not yet been officially decided upon until calling the Council Meeting to order and all council voting.

This does NOT demonstrate good faith, honest or transparency in our local government. These are the actions that I am very concerned about and what the community is questioning.

I hope this changes and I am holding you to your word Mr. Troxell.

Sincerely,

Tamra Meurer
1137 Wyndham Hill Road
Fort Collins, CO 80525
I know the final vote to approve the zoning for the former Hughes property is fast approaching but before you vote I ask you to consider something that was recently mentioned in a Coloradioan article. The article was about the EPA air quality ratings. It mentioned the Western part of Fort Collins was the area that exceeds the air quality standards. Do you really want to add that much housing and additional vehicles to the portion of town that already suffers from the poorest air quality in town?

Thank you for taking the time to read my concerns. If I had known these statistics when I talked at the Council meeting where premiliary approval was given I would have mentioned them at that time.

Thomas Schipper
3025 W Stuart St., Apt. D
Fort Collins, CO. 80526

Get Outlook for Android
Dear City Leaders----I’m disappointed by your recent vote to approve the Montava project before more considerations of consequences, which I believe were warranted for such a massive project. I still fear many negative unintended consequences. However, at least this project and its developer have some positive attributes, which seems much harder to say about the current plans for the Hughes redevelopment site and its proposed developer. First, I found out that the Lennar company---though currently the largest home-builder in the U.S.----has very poor customer satisfaction ratings. The Consumer Affairs online link gave the company a mere one-star rating based on 113 reviews. And the Better Business Bureau received 587 complaints against them in the past three years. Lennar is also not even currently accredited by the BBB. At the very least, it looks like a better developer should be found for whatever development is considered.

I don’t live near the Hughes site, so I wouldn’t be directly affected by whatever happens there. However, I have a broad-minded interest in what’s good for our community, and the idea of another big development at this location----though it’s no where near the size of massive Montava----seems like another environmental insult that can also have many negative consequences. From what I’ve read, the proposed project has no environmental or public benefits; and can only have deleterious effects on local traffic, the nearby natural areas, and cause lots of local congestion and possibly even more flooding potential. There should be better locations and ways to address the city’s housing, including affordable housing needs----which this project seems deficient in anyway.

I’m one of the many who believe CSU made a foolish decision in building the new stadium instead of renovating Hughes; and that institution’s consequent debts have resulted in its willingness to sell the property to a high bidder like Lennar. This is certainly not CSU’s best example of their concern for the local environment and its stewardship. And the city should be firm with them and not enable them to do what’s most profitable for them after the hole they got themselves into.

Please oppose the next adoption of the rezoning ordinance that would enable the proposed project to go through with the current developer.

Sincerely,
Charles Kopp
Fort Collins

Sent from Mail for Windows 10
Thank you,

Emily Gorgol  
Pronouns: She, Her, Hers  
City of Fort Collins  
Councilmember, District 6  
970-556-4748

With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can’t guarantee that any email to or from Council will remain private under CORA.

From: Cindy Harris <cindyh53@msn.com>  
Sent: Sunday, January 19, 2020 8:38 AM  
To: Emily Gorgol  
Subject: Representing Your Constitutes

Ms. Gorgol:

With the contentious Hughs Stadium development vote coming up for second reading on Tuesday, I want to remind you that you were elected by the people of this district, who trusted you to represent them. I want to remind you that your represent us, and not your personal agenda or the realtors.

You haven’t lived in Ft. Collins long enough to fully understand what made this a great place to live in the past. It appears that you are drinking the realtors Kool Aid, and voting for what they are selling as affordable housing. You know darn well that high density development of the Hughs Stadium property will ruin the west side of the city. Where are those roughly 2,000 people going to drive to get to their workplace, etc? Who’s going to build new schools for them? Increase emergency services? It’s already congested over here, with student traffic and virtually no law enforcement. I honestly do not think that you understand the west side.

Does the majority of people in your district want high density housing on Hughs? I doubt it. So do the right thing- represent us honestly and faithfully. We voted you in. Not the realtors and not CSU. Do not be a one term wonder who leaves the City in un-doable tatters. Do not model Troxell & his toadies.
Sincerely,

Cindy Harris
931 Kimball Rd.
Ft Collins, 80521

Sent from my iPad
I would like to add my urgent plea to the city council to keep the old Hughes Stadium area as an open space. As a 25 year resident of Bellvue, living just west of Horsetooth Reservoir, I have seen so much crowding happening in my area that it breaks my heart. My once peaceful home now has non-stop traffic, especially on the weekends, heading toward Lory State Park, or crowding the dam road so that it is really uncomfortable riding a bike or running up there. I know most people see this as inevitable. Certainly that’s been the story of my life, growing up in Denver. But is there any point at which we can choose to slow development down, to not cover every inch with cement and roads and electrical grids, preserve some sense of peace and calm? I urge you to do whatever you can to keep this an open space where there are no houses and cars. I know the powers that be have rejected this as an open space. But someone, somewhere has to take a stand for nature. It is essential for human happiness. We have to take a stand against money being the bottom line for every decision!
Dear honored and respected Ladies and Gentlemen of the Fort Collins City Council,

This letter is with regard to your vote on the rezoning of the former Hughes Stadium site. We would like to ask you to vote on rezoning in such a way that the developer would like to choose to walk away from the contract with CSU.

The CSU Stadium site is an absolutely unique Foothills location adjacent to significant open space that, in our opinion, constitutes one of Fort Collins’ signature attributes. We find it unwise to consider handing over this gem to a private nationwide developer driven by maximizing shareholder value rather than keeping the best interests in mind for the City of Fort Collins. In your elected roles as the guardians of our city’s future, we appeal to you to vote on the side of sustainability and quality of life and preservation of nature over short-term financial gain. There is plenty of other lands near the city better suited for development; please don’t sacrifice this one-of-a-kind location to become just another subdivision.

We strongly think there are much more viable alternatives and forward-looking opportunities with different use cases, not involving medium or high-density housing! Consider Boulder’s Chautauqua Park area: it is a bridge between existing residential areas and hiking trails, much like the Hughes site, and includes an auditorium and is an anchor for the Interurban park area with high-tech facilities nearby. We believe that this very different vision than just another Lennar neighborhood is a more sustainable development opportunity which would:

- create significant income streams for the City of Fort Collins,
- preserve the uniqueness of the land,
- be in balance and satisfy the needs and wishes of citizens to maintain the uniqueness of this beautiful area and nature,
- be accomplished in a sustainable, renewable energy and thus lighthouse project fashion which could enable Fort Collins to be a leader in adopting sustainable, new energy concepts, and
- potentially give several local developers business and income.

We understand that CSU needs about $10 million. We think that this could be accomplished via a crowdfunding initiative and/or a City-backed plan to rezone the land appropriately, repurpose it in a sustainable and forward-looking way, and mandate renewable energy usage! Perhaps CSU itself would be interested in being a partner in this vision as a way to enhance their image as a leader in 21st-century science and engineering.
This approach would allow our citizens to see the future preservation and prospects of the land in balance with their usage model, all while the City could maintain various income streams.

We are hoping you will vote according to your conscience and do everything you can to protect this unique land instead of sacrificing it to a national faceless developer to become just another tract of generic housing.

Thank you for your consideration.

Warmest regards,

Jeff and Gabriele Rearick.
Thanks for all of your service to our community!

Although I cannot make the meeting tomorrow night, I'd like to express my opinion on the Hughes development. I agree with the PATHS group about wanting to see less development in this area. This area is SO special and I hope it can be retained as some sort of natural area or at the very least less homes. This is a special piece of land up against the foothills and doesn't need to be ruined with a huge housing development. 600 houses would be too much! Traffic would be a nightmare for those of us who live over on this side of town. Please be forward thinkers with tomorrow's vote. Have the best interests of citizens in mind and NOT developers and greed. Choose the legacy you want to leave on this choice city. Don't be remembered as the council who developed the whole city into a place none of us want to live anymore. Please choose to keep our city great which includes keeping the beauty! Thanks for listening and also for your service.

Thanks,

Jen Strating
970-690-2153
Hughes Stadium Redevelopment

CORRUPT, DISRUPT and then CONSTRUCT

Let’s remember that the GREAT RECESSION was caused, in large part by the housing and banking industries to begin with…

After the recession of 2008-2012, there were only a few developers ready to fill in the void. Unfortunately, the most opportunistic of them filled in quickly. This is when you witness the likes of Lennar Homes and its “designer/approval expediter” firm of Norris Design, come into the new decade with out-of-date, non-sustainable, large-scale and generic home-building plans for acreages from Thornton, to Ft. Collins to Parker and beyond. Please keep this in mind.

Also, if the whole “Ethics-Board Thing” that went down in December of 2019, is any indicator of the ETHICS involved with the relationship of CSU and Lennar Homes, then we should all be forewarned:

In the ethics complaint, in November of 2019, against two Fort Collins councilmembers, Nicolas Frey and Mary Grant wrote that Mayor Wade Troxell and Mayor Pro Tem Kristin Stephens should not be participating in decisions about the Hughes rezoning because, as Colorado State University employees, they have financial and personal conflicts of interest.

When the “Ethics Board” addressed this complaint by holding a sham of a hearing in December of 2019, it seemed to do nothing but confirm the VOID or absence of any ETHICS revolved around the whole project in its totality. In other words, putting together a group of supposed “ETHICS” experts who do not send out proper notification of a hearing, then allow the defendants (mayor Wade Troxell and Kristin Stephens) to have lawyers present, but give no notice for the complainants to even be AWARE the formal hearing was even being held, well . . . then we all know how “ETHICAL” this whole real estate deal really is, in the first place. And of course, it was held in December when most people are involved with holiday planning and other focuses. This is another key component of working with the “professional firms” of Lennar Homes and Norris Design. The most “professional trait” of these groups is how they sideline any real proper design and construction or public interest . . . instead these firms regularly involve themselves in politically-timed development, rather than truly responsible development.

As a person who was involved with developers and construction for over 25 years, before the recession, I can attest to how both Lennar Homes and Norris Design function as a “development team”. Although I do not know the particulars of this
particular project and how it really went down, based on past experience, I can only
conjecture that it went down something like this:

In 2014, or so, John Norris, head of Norris Design, went and talked with Tony Frank,
president of CSU. This is likely as John N. loves to connect himself with powerful
people who can help him with real estate deals ... and sports-related projects. John
Norris is a Basketball Player Wannabe who is, theoretically tall enough to have
played basketball, but was never talented enough to play basketball. I think this has
always haunted him to the point that he has to “compensate” over and over and over
and again.

Anyway, John Norris and Tony Frank got to talking about real estate and sports then
came up with a . . .

WONDERFUL, AWFUL IDEA! They could kill two valuable, unique birds with
one stone!

By moving the stadium into town, they could require significant sums of money
be spent on a stadium that had been paid off long ago, and then they could
exercise eminent domain powers on adjoining residents and businesses within
Ft. Collins, proper. This would also allow 165 acres of real estate to become
“AVAILABLE” on the south side of town so that John Norris could get his
typical client/partner, Lennar Homes another great place to put up another one
of its obsolete and gigantic generic “neighborhoods”.

By “SELLING” the stadium concept as a way of constructing a “great” NEW Stadium,
and thereby, “creating a great football team” (JEEZE, these guys are really bonehead
“optimists”) and then by promising that no outside funds would be needed, Tony
Frank and John Norris had a perfect plan! Of course, there became architectural and
construction problems, but that really did nothing but JUSTIFY the need, even more,
to sell off the old Hughes Stadium to pay off the newly-generated “DEBT”.

Anyway, I surmise this is a likely scenario because this is the METHOD of
OPERATION these two Clown firms often use. Add on the METRO DISTRICT
component and you have a perfect recipe for expensive disaster on a piece of
property that BELONGS to CSU, the students of CSU and the tax-paying residents of
the State of Colorado. This piece of property should be doing some good beyond
lining the pockets of Lennar Homes and the pockets of CSU.

This site should be used for something of real meaning.

All this empty rhetoric about respecting the Native Americans might actually have
some substance if we returned a predominant amount of this old Hughes Stadium
land back to nature and to the plants and animals who already call this place home.
A Wildlife Rehabilitation Center would only cement the intent.

As well, other parts of this 165-acre site could be used for responsibly-designed
neighborhoods with net zero carbon use (solar, geothermal, energy etc.) and green
infrastructure (drainage swales rather than pipes, pervious pavement rather than
concrete and asphalt, planting trees and other carbon neutral implementation etc.)
This work could be sourced out locally, or best case scenario – involve the students
at CSU for some true education!

Any time I hear Lennar Homes or Norris Design, I cringe. We can do a **lot BETTER**.

We need to be thinking long term, NOT simply considering constituents who want to
make a quick buck on their REMAX home sale commission. **Please REVERSE YOUR VOTE!**

Sincerely,

Karen Kalavity

CSU ALUM
City Council has heard numerous public comments and received many letters consistently asserting that Fort Collins residents do not favor LMN and RF zoning for the Hughes redevelopment, as recommended by City staff. At several Council meetings, you have heard consistently that the community does not want 500-1000 homes on this site. Residents have repeatedly expressed their concerns about problems that the proposed redevelopment will create:

- increased pollution next to the foothills,
- greater traffic congestion,
- limited means for emergency evacuation,
- inadequate consideration of residents’ safety,
- lack of accessibility to public transportation,
- overcrowding in local elementary schools,
- unsightly sprawl in a beautiful area, and more.

Instead of following the Planning and Zoning Commission’s recommendation for RF Housing zoning, Council is now considering the staff recommendation for LMN as well as RF housing. According to Fort Collins Zoning Codes, LMN and RF zoning can allow over 1,000 houses to be built on the Hughes property.

As you know, Lennar Builders has a contract with CSU incentivizing the University with bonuses once 625 homes are built at this site. Although Cameron Gloss, the City’s Long Range Planning Manager, stated before Council that the builder will probably not construct more than 550 houses at Hughes, there is no incentive or motivation for Lennar to stop at this estimated number of units. In fact, nothing can block Lennar from building the maximum number of homes on this parcel unless City Council decides to take a different path.

Therefore, we, the undersigned, recommend the alternative that a majority of our community would support—the P&Z recommendation for RF. If the land is zoned RF, there are a number of advantages:

- CSU and Lennar have their purchase agreement satisfied.
• CSU gets its $10 million.
• Lennar gets to build homes on this site.
• The community and 500,000 visitors to Horsetooth continue to enjoy open space.
• Increased traffic congestion is avoided.
• PSD will be able to accommodate any new students at existing schools.
• Bicyclists on Overland Trail will not be endangered by greater traffic congestion.
• The safety of residents will be less compromised during an evacuation.
• The City’s Night Sky Initiative will be supported with less light pollution.
• Reduced GHG emissions will help the City reach the goals of its Climate Action Plan.
• The City will have up to 200 new houses on the west side and enjoy other benefits from RF zoning.

The best interests of the residents of Fort Collins will be served if the City agrees to the RF zoning for the entire Hughes redevelopment.

Signed,

Russell Ayer 80525 *Brendon Sullivan 80521 *Scott Umbreit 80526
Julie Raaz 80525 Marilyn Peltzman 80526 Carol Montgomery 80525
Marianne Flenniken 80526 David Grosset 80526 Beth Grosset 80526
*Tamra Muerer 80525 Bonnie Ayer 80525 Arleen Erber 80526
*Aja Jha 80528 *Renee Walkup 8052 Doug Henderson 80521
Ted Walkup 80521 Gary Faris 80521 Matt Clark 80521
Susan Leopold 80528 John Leopold 80528 Rachel Walkup 80521
Ann Conroy 80525 Diane Couvier 80528 Liz Thompson 80524
*John Thompson 80524 Liz Irvine 80525 Jenny Morse 80521
PUBLIC COMMENTS RECEIVED
NOVEMBER 6, 2019 THROUGH MARCH 10, 2020

Gretchen Iberra 80528 Fernando Iberra 80528 *Ann Baron 80525

*Jephta Bernstein 80528 *Greg Tjossem 80521 Karen Tjossem 80521

*George Soderling 80524 Cath Nelson 80528 *Mary Grant 80521

*Susan Frost Davis 80521 Maureen McCarthy 80525 *Rex Miller 80526

*Denotes business owners in Fort Collins.
Dear Recipients:

A great deal of time, money and effort to arrive at a reasonable solution the question(s) as how to agree upon a reasonable solution concerning the Hughes Property development.

I respectfully request that each of you take the time to carefully consider a reasoned approach to meet the needs of all parties in this very important matter for our community.

Thank You,
Russ Ayer
russ.ayer46@gmail.com
From: Russ Ayer (via Google Docs)
To: City Clerk Office
Cc: wtroxill@fcgov.com; Julie Pignataro; Kristin Stephens; Emily Gerrod; Ross Cunniff; Cameron Gloss; Rebecca Everette
Subject: Hughes Signature Letter 1-17-2020 - Invitation to edit
Date: Saturday, January 18, 2020 9:15:39 AM

russ.ayer46@gmail.com has invited you to edit the following document:

 Hughes Signature Letter 1-17-2020

WE appreciate your taking the time to read and consider this proposal.

Russ Ayer
russ.ayer46@gmail.com

Open in Docs

This email grants access to this item without logging in. Only forward it to people you trust.
City Council has heard numerous public comments and received many letters consistently asserting that Fort Collins residents do not favor LMN and RF zoning for the Hughes redevelopment, as recommended by City staff. At several Council meetings, you have heard consistently that the community does not want 500-1000 homes on this site. Residents have repeatedly expressed their concerns about problems that the proposed redevelopment will create:

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Jeri Davis 80526
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Greg Tjossem 80521
Cath Nelson 80528
Kelsey Meurer 80526
Neslie Hernandez 80525
Tamia Meurer 80525
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Jenny Morse 80521
Ann Baron 80525
Karen Tjossem 80521
Mary Grant 80521
Alexis Coover 80526
Chelsea Evans 80521
Lonna Miller 80526
Marc McKee 80526
Delynn,

I assumed you saw this message, but I’m sending it on just in case you hadn’t. Another one for the record.

Cameron

Hi Mr. Gloss,

Please see fyi below.

Best regards,

Gabriele

Dear honored and respected Ladies and Gentlemen of the Fort Collins City Council,

This letter is with regard to your vote on the rezoning of the former Hughes Stadium site.

We would like to ask you to vote on rezoning in such a way that the developer would like to choose to walk away from the contract with CSU.

The CSU Stadium site is an absolutely unique Foothills location adjacent to significant open space that, in our opinion, constitutes one of Fort Collins’ signature attributes. We find it unwise to consider handing over this gem to a private nationwide developer driven by maximizing shareholder value rather than keeping the best interests in mind for the City of Fort Collins. In your elected roles as the guardians of our city’s future, we appeal to you to
vote on the side of sustainability and quality of life and preservation of nature over short-term financial gain. There is plenty of other lands near the city better suited for development; please don’t sacrifice this one-of-a-kind location to become just another subdivision.

We strongly think there are much more viable alternatives and forward-looking opportunities with different use cases, not involving medium or high-density housing! Consider Boulder’s Chautauqua Park area: it is a bridge between existing residential areas and hiking trails, much like the Hughes site, and includes an auditorium and is an anchor for the Interurban park area with high-tech facilities nearby. We believe that this very different vision than just another Lennar neighborhood is a more sustainable development opportunity which would:

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This approach would allow our citizens to see the future preservation and prospects of the land in balance with their usage model, all while the City could maintain various income streams.

We are hoping you will vote according to your conscience and do everything you can to protect this unique land instead of sacrificing it to a national faceless developer to become just another tract of generic housing.

Thank you for your consideration.

Warmest regards,

Jeff and Gabriele Rearick.
Dear City Leaders,

Apparently CSU and the City sold out to Lennar Development company to build a mix of residential units at the former Hughes site. This was a huge mistake and sad day for the parcel of land that was a gateway into the foothills and a corridor for wildlife and open space for the residents of Fort Collins. Since this huge mistake has already been approved, please consider limiting the amount of development on that land so that it does not look like the Lennar development that is currently being built on the northeast end of town. The lack of foresight on the former Hughes property is disgusting and makes me sick, so much that I want to pack up my family and leave Fort Collins. With all of the current development and proposed development on that area off of Overland trail, I can only predict that the foothills trail, nature and community around that area will be impacted negatively forever.

If only the City would stop the madness, find the funds and purchase the land as open space. The corridor along the foothills is more important to this City than packing in as much as possible in an area that is extremely important for the future of this City and the environment. Please share. Thanks

John Holcombe
Dear City Council Members,

Before I say more, **I want to thank council members Ross Cunniff and Susan Gutowsky who listened carefully to and voted on behalf of their constituents last week**, when they expressed concerns about the Montava development proposal—which included some good ideas, but which also is slated to be a Metro District. Ross and Susan seem to understand how devastating Metro Districts can be to whole communities—especially to those seeking affordable and attainable housing.

In all likelihood, if Lennar obtains the Hughes site, they will create a crowded Metro District and a terrible mess at the same time, all the while displacing wildlife that has depended on this land for years. A poor zoning choice on the Hughes property could result in irreparable damage to a piece of land that is worth much, much more than the mere $10 million that CSU has promised to sell it for to Lennar Homes.

A recent Denver Post article discussed the devastation that Colorado homeowners in Metro Districts faced when the taxes for the homes they bought at an “affordable” price soared in less than a year. One homeowner said that her taxes went from $812 the first year to almost $3,500 less than a year later and $4,400 two years after that. Even though she felt she could afford the mortgage, it was the taxes that were creating unanticipated financial hardships for her.

On Sunday, I spent a few hours talking with people in City Park and the City Park neighborhood (in Emily Gorgol’s District 6) to hear their ideas about the potential development. Many people said that the Hughes Stadium site is a prime example of the natural areas that make people want to live in and visit Fort Collins. They wished that CSU would find a different way to cover its debts and keep the land as open space. But if this isn’t “in the cards”, they agreed that the 100% RF zoning option seemed to be the next best scenario.
If I had more time, I would have tried to get signatures from more people in other Districts—where I know many people who want to see the land stay as open space. We still hope that CSU and its Board of Governors will finally see the light, start making fiscally sound and truly green decisions, and stop moving in the reckless, unsustainable way that has been going on in recent years.

Some of the people with whom I spoke wanted to attend tonight’s City Council meeting but had other commitments. They thanked me for the opportunity to sign a special T-shirt to represent their voices at tonight’s meeting. We hope that tonight, more of our City Council members will show the courage that Ross and Susan showed last week to vote on behalf of their constituents, rather than buckling to the pressures of CSU’s Board of Governors and Lennar Homes.

Thank you,
Patricia Babbitt, 80521
January 21, 2020

SENT VIA US MAIL
Fort Collins City Council
City Hall West, 300 LaPorte Avenue
Fort Collins, CO 80521


Dear Council Members:

As you may recall, this law firm has been retained by Mr. Rex Miller, Ms. Tamra Meurer, and Ms. Mary Alice Grant regarding the City Council’s decision to exercise its quasi-judicial powers to rezone the former Hughes Stadium site in west Fort Collins.

Our office has been informed that Rory Heath filed an ethics complaint earlier today. We respectfully request that the Council postpone the Second Reading of Ordinance No. 138, 2019, pending resolution of the Ethics Complaint.

Sincerely,

HADFIELD STIEBEN & DOUTT, LLC

Sara K. Stieben
January 21, 2020

To: Fort Collins City Council Members, Cameron Gloss, CSU Board of Govenors

CC:  Matt Blum, KUNC

While the meeting tonight is a zoning hearing, it is clear that the city’s proposed plan, the CSU/Lennar Agreement and the comments of many City Council members focus on how the property will be developed and therefore it is difficult to separate zoning and development. Additionally, some of these questions may seem too global, however, they ultimately relate to the City Plan. Council members refer to the City Plan in discussions of identified growth areas, including Hughes, and the impact zoning will have on this area forever.

We feel it is important to ask and receive answers to the following questions:

Cameron Gloss

1. Why after the P & Z Board recommended 100% RF did you completely disregard their recommendation and you presented your recommendation to City Council with just the briefest mention that the P & Z Board recommended 100% RF?
2. Why are you saying 500 - 550 units would be built on the Hughes property? We all know that you worked with CSU regarding the zoning. We also know that the agreement CSU signed with Lennar states a minimum of 600 units and provides incentives for every unit built over 625 and also includes additional bonuses as units are sold?
3. What is the exact number of units that can be built on the Hughes property with the LMN/RF zoning you have recommended? Not what you think, but the ACTUAL number. Please breakdown the number down by LMN and RF.
4. Why was the City Plan with identified growth areas implemented after CSU and Lennar signed their agreement regarding the Hughes Property?
5. Why after all of the feedback from the community to the City and CSU regarding the Hughes Property did you and your team only present housing development options for consideration?
6. Why if there is not a formal plan from Lennar for the Hughes Property, why are people meeting at the city building discussing the infrastructure issues for 550 units on the Hughes Property?
7. Why hasn’t the concept of a Public/Private/Philanthropic Partnership been explored?

Colorado State University

1. Cameron Gloss stated in a City Council Meeting that CSU refused to consider selling the Hughes Property to the City. Please explain why this decision was made.
2. The Hughes Property was a land grant for and by the people. The community should have a say in what happens to this property. The community has been very clear, time and again, regarding the use of the Hughes Property. Why did you completely discount the public input on the Land Grant Property?
3. Why, after CSU has been so vocal regarding affordable housing for your workforce, did you not make workforce housing a requirement of the sale?
City Council

1. When will City Council start demanding answers and information for example, when will the studies the community has requested be completed and results “published”
   a. Ecological Characterization Study
   b. Emergency Response and Rescue
   c. Traffic study from Drake to LaPorte
   d. Educational Capacity
   e. Air Quality
   f. Structural Engineering Impact Study to the Reservoir
   g. Environmental Assessment Study

2. Many people in the community believe the Zoning for Hughes is a done deal. They find it hard to believe in transparency in government when secret meetings and communications continue between players. The realtors and were informed that the 2nd Hughes reading would not take place on November 19, 2019 hours before City Council voted to delay the vote. Mayor Troxell stated at the start of the City Council Meeting that he had not had the opportunity to speak with his fellow council members so how could the Realtors already know?

3. Some council members continue to assert that affordable housing is desperately needed and believe it will be built on the Hughes parcel. The community would like to know, by approved housing developments currently be built and/or considered exactly how many affordable and attainable units will be built in each development.

4. Once zoning is approved, what control does the city have over how many affordable and/or attainable units are built if the plans submitted by a builder meet all codes and regulations?

5. Why aren’t affordable/attainable units being included in developments within the City Core which already has access to transportation and needed amenities?

6. Many of the cities starting out on the “Top Ten Places to Live” quickly lost their place because increasing population became more important than livability. The Fort Collins community wants Livability what does the City and the City Council want?

If you decide to support the recommendation of LMN/RF recommended by the City Planners, it will ultimately destroy the night sky’s, wildlife habitats and access to Horsetooth Reservoir, also referred to as the “Crown Jewel of Fort Collins”. Safety in the foothill’s community will also be impacted since the City Plan identifies floods and wildfires as an ever-increasing threat as climate changes continue to occur.

Residents in the area prior to the Ponds and Bella Vira developments report that RF Zoning was fervently promoted and supported by the City to obtain buy-in that the buffer to the foothills would always be maintained. Subsequently, home buyers in this same area have relied on this promise.

We ask that you vote no tonight and not support LMN/RF for Hughes. Rather, support the P & Z Boards’ recommendation of RF as a compromise between the Community, CSU and The City.

Sincerely,

Tamra and Robert Meurer 80525
Mary Grant 80525
Glenn and Mary Wemhoff 80526

Rex and Lonna Miller 80526
Marc and Codi McKee 80526
Doug and Pat Macallister 80521

Alexis Coover 80526
Jeralyn Davis 80526
David Thompson 80521
Fort Collins City Council members,
As citizen of district #5, I ask you to vote NO to the city planners zoning proposal and support the Planning and Zoning boards recommendation of 100% RF zoning at Hughes. The Planning and Zoning Board's recommendation is a solid middle-ground for both progress and protection.
Progress towards building out a robust community while protecting the integrity of Fort Collins character and the social, economic, and health benefits we reap from its unique attributes.
As stated in the Nature in the City Strategic Plan, properties in close proximity to natural areas yield a 10% price premium. So please steer clear of the false logic that affordability/attainability will be a product of greater density. Final build-out costs and road improvements, combined with demand and scarcity, will ultimately drive price point; not your zoning decision.
Furthermore, preserving the character and serenity of the surrounding neighborhoods (your constituents homes) should be your primary goal; not continuity with the surrounding housing types.
Development of any kind is going to bring more noise pollution, vehicle emissions, network-wide traffic congestion, light pollution, etc... so consider carefully your decision and how it contributes to the quality of life here in Fort Collins.
Your vote against the City Planner's proposal is most appreciated.
Regards,
Anna
What do we do with this? Packets are already done.

Jessica C <underthemidnightskies66@gmail.com>
Sent: Tuesday, January 21, 2020 4:56 PM
To: Sarah Kane <SKane@fcgov.com>; Wade Troxell <WTroxell@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Ross Cunniff <rcunniff@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>
Subject: City Council Meeting Public Opinion Statement

Hello,

I am unable to attend the City Council Meeting tonight, 1/21/2020. But I would like to express my opinions on discussion item #18 “Second Reading of Ordinance No. 138, 2019, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Hughes Stadium Site Rezoning and Approving Corresponding Changes to the Residential Neighborhood Sign District Map”.

I do not agree with the current proposal to make the Old Hughes Stadium Space a high-density subdivision. I feel this is an unwise and unnecessary use of this most precious space. It would be far more appropriate to utilize this space as a Residential Foothills Low-Density Mixed-Use Neighborhood zone district. Keeping this space low-density is not only safer for the local ecology, but also for the residents who do and would come to live in that area. As community safety, climate concerns, and natural open spaces are pinnacles of the City of Fort Collins and Larimer County values it is paramount that we keep these values at the core of every decision we as a city make. Please do not let other ideas compromise the morals and values of this city, its citizens, and its community. We are a people who love the outdoors, open spaces, wildlife, and nature. There are other, safer, more efficient places to build high-density housing, but the Old Hughes Stadium is not the right place.

Please also consider the inclusion of a Wildlife Rehabilitation Center in this geographic area. As stewards of the planet it is our duty to care for the wildlife that lives alongside us humans. By not having a center that is solely dedicated to their welfare and rehabilitation we are doing a great disservice to local wildlife and the local community. These rehabilitation

Packet Pg. 461
centers provide care for wildlife as well as public education which improves community safety by lowering public contact with injured, lost, or otherwise distressed animals where either party can become injured.

In conclusion, please listen to The Planning and Zoning Board, there is value in their recommendation. Make the Old Hughes Stadium a Residential Foothills Low-Density Mixed-Use Neighborhood zone district. Please vote tonight with the community’s wishes and the local ecology’s and best interests in mind.

Thank you,

Jessica Cunningham
970-237-9345
Fort Collins Resident since 2008
Dear City Council Members,

Before I say more, I want to thank council members Ross Cunniff and Susan Gutowsky who listened carefully to and voted on behalf of their constituents last week, when they expressed concerns about the Montava development proposal—which included some good ideas, but which also is slated to be a Metro District. Ross and Susan seem to understand how devastating Metro Districts can be to whole communities—especially to those seeking affordable and attainable housing.

In all likelihood, if Lennar obtains the Hughes site, they will create a crowded Metro District and a terrible mess at the same time, all the while displacing wildlife that has depended on this land for years. A poor zoning choice on the Hughes property could result in irreparable damage to a piece of land that is worth much, much more than the mere $10 million that CSU has promised to sell it for to Lennar Homes.

A recent Denver Post article discussed the devastation that Colorado homeowners in Metro Districts faced when the taxes for the homes they bought at an “affordable” price soared in less than a year. One homeowner said that her taxes went from $812 the first year to almost $3,500 less than a year later and $4,400 two years after that. Even though she felt she could afford the mortgage, it was the taxes that were creating unanticipated financial hardships for her.

On Sunday, I spent a few hours talking with people in City Park and the City Park neighborhood (in Emily Gorgol’s District 6) to hear their ideas about the potential development. Many people said that the Hughes Stadium site is a prime example of the natural areas that make people want to live in and visit Fort Collins. They wished that CSU would find a different way to cover its debts and keep the land as open space. But if this isn’t “in the cards”, they agreed that the 100% RF zoning option seemed to be the next best scenario.
If I had more time, I would have tried to get signatures from more people in other Districts—where I know many people who want to see the land stay as open space. We still hope that CSU and its Board of Governors will finally see the light, start making fiscally sound and truly green decisions, and stop moving in the reckless, unsustainable way that has been going on in recent years.

Some of the people with whom I spoke wanted to attend tonight’s City Council meeting but had other commitments. They thanked me for the opportunity to sign a special T-shirt to represent their voices at tonight’s meeting. We hope that tonight, more of our City Council members will show the courage that Ross and Susan showed last week to vote on behalf of their constituents, rather than buckling to the pressures of CSU’s Board of Governors and Lennar Homes.

Thank you,
Patricia Babbitt, 80521
Good Morning Mayor Troxell and City Council Members,

Good Morning Mayor Troxell,

Last night's delay of the vote was an extreme disappointment. As a student at CSU, every event starts with the acknowledgment that the land our university sits on was stolen from the natives who once lived here. As a land grant university, the point is to steward the land and use it for educational purposes. The point is NOT to sell it to the highest bidder to create more high priced homes that price folks such as myself who hope to make Fort Collins a home out of the area. I am finishing a graduate degree and have set my eye on the next prize - where to buy a home and raise my family. I have to seriously consider the motives of the City Council and this city if they would bow to developers' wishes in order to make more money rather than listen to the wishes of their constituents, the ones who pay taxes to live and play here.

Do we want to talk about Fort Collins' beauty in the past tense? Because once these areas are gone, they are gone. When you hike at Devil's Backbone and make it to the keyhole, you look through at the Rockies -- and a giant sprawl of ugly subdivisions. Is that what your legacy will be? Opening our precious open spaces to development that we cannot sustain? What about the dire warnings of air pollution and water shortages? Please reverse the vote on the Hughes land and make it 100% residential Foothills zoning to ensure the impact on our beautiful land is minimal.

Unfortunately, I was unable to stand before you and speak my piece. Twice now I have been denied this opportunity, due to unforeseen ethics complaints and delays. You've rescheduled the third vote to a date I will be traveling for school, and felt I needed to reach out.

Respectfully, your constituent

Deana Muñoz
Occupational Therapy Student
Class of 2021
Colorado State University
January 21st, 2020

Dear City Leadership,

I am writing on behalf of CARE Housing regarding this evening’s second reading of ordinance No. 138, 2019. I support the Staff recommendation to zone the site as Residential Foothills (RF) and Low Density Mixed-Use Neighborhood (LMN) in comparison to the P & Z Board’s recommendation of zoning the site entirely RF.

The Hughes Stadium site presents an opportunity to address equity in our community, as well as what 90% of Fort Collins residents agree is the top challenge: housing affordability. We, as a community, need to do better when it comes to providing our citizens with affordable housing options, especially our lower wage earners and historically marginalized people. A stable home provides opportunities for families such as this CARE Housing resident:

“My 3 children and I have been residents of CARE Housing since January of 2019. I left a marriage of 16 years in 2017 and had little to no life skills to get me along in the real world. I obtained employment and have had the same job since November of 2017. I am so very happy with the success that I’ve had while living at CARE Housing and the ability to make lifelong dreams of freedom from daily terror and a happy place to heal for my children a reality.”

Through smart design, we can achieve shared goals of creating a vibrant, sustainable community without sacrificing opportunities for all residents. Our City will continue to grow in population. We as a community need to ask if we want policies that exacerbate inequality, and favor only the highest wage earners, or grow in a way that provides opportunity to all walks of life.

Sincerely,

Steve Kuehneman
Executive Director
Dear City Leaders,

Please see attached letter on behalf of CARE Housing in regards to Ordinance No. 138, 2019.

Thank you for your time and efforts.

Best,
Steve

Steve Kuehneman, Executive Director
CARE Housing | 1303 W. Swallow Road, Bldg 11 | Fort Collins, CO 80526
Office: 970.829.1606 | Cell: 970.222.6649
www.carehousing.org
Dear City Leaders,

In your consideration of the CSU stadium property, I hope that there is some way to save the sledding hill. It is really a unique park. There's nothing else quite like it in Fort Collins. I take my kids there every year. It's big and dozens of families can use it at the same time. It's wholesome and promotes healthy activity at a time of year when it is easy to stay indoors and loaf around. We get out and enjoy the fresh air while enjoying the thrill of sliding down and the huff and puff of hiking back up. Sledding there is good, clean fun for the whole family. We are making happy memories every time we go. I hope that there is a way to make that spot a city park and ensure healthy, happy memories for families going forward.

Sincerely,
Erin Hottenstein
Wanted to make sure this was added to comments on Hughes Stadium. It came through the devreviewcomments inbox. See below.

Marcy Yoder  
Neighborhood Services Manager  
MYoder@fcgov.com  
970-221-6676

To Whom It May Concern:

I appreciate the need for affordable housing in Fort Collins. However, I urge you to select a development plan that carefully balances our values as a community, one which will sustain a long-term quality of life for residents.

600ish houses does not express this balance in my mind. Over a thousand new cars in this area and heavy new foot traffic + noise, light, and other pollution near the nature areas is not respectful of the many beings already calling this area home.

I am a homeowner who put my faith in the city of Fort Collins for my long-term well being. I urge you to consider carefully the healthiest and most well-balanced plan of development for this site and for all City Planning.

If we lose the natural harmony which Fort Collins was founded upon - a respected balance between nature and human use - we will destroy the very fiber of our beautiful city.

My last related concern is nearby biking paths, which already have many travelers, sometimes moving at quite high speeds. These trails are already very heavily used.

What we need is City Planning respectful of natural spaces and cautious of overcrowding, which also includes caring housing options. We need the balance. I've always seen Fort Collins as a leader in this
area, and I hope we will continue the important task of modeling sustainable, nature-framed living for each other and other communities.

Please, be brave and wise in pursuit of right balance.

Thank you,
Erica Parker, 80526
Dear City Council Members,

I am a student at Rocky Mountain High School in Fort Collins Colorado. I am taking a class called "We the People" in which we are doing a civic action project. For my project, I am focusing on Fort Collins population issues and what can be done about it. I found out that Lennar Corporation bought the Hughes Stadium land from CSU and is planning to build 600 to 700 houses. In order to lower the effects of this huge building project I am proposing building less houses and making them for low income families. What I need from you, if you are willing to help, is just information. What do you know about this project? Do you think the amount of houses they want to build will poorly affect Fort Collins? Can you do anything to help lower said effect? Any information will help.

I realize this may not be a priority and you may not think of this project as a bad thing. My concern about it comes from living in that area near Hughes and already finding it very busy. Thank you so much for your time.

Isabella Macchietto
For you...

**************

Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

From: BARBARA BONILLA <barbarab91@comcast.net>
Sent: Tuesday, March 3, 2020 12:38 PM
To: Ross Cunniff <rcunniff@fcgov.com>; CAO Admin <caoadmin@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Wade Troxell <WTroxell@fcgov.com>
Subject: Hughes Property 2nd Reading

To: Fort Collins City Council and City Attorney

I am writing to request that the second reading of Ordinance No. 138, 2019, addressing the zoning for the property known as Hughes Stadium, be moved from March 17, 2020 to a date that does not conflict with the Poudre School District and CSU spring break. As you are well aware, many Fort Collins citizens are extremely concerned about the zoning for the Hughes Property. To hold the second reading during Spring Break when many families will be out of town seems unfair.

Please reconsider and move the date of the second reading to a time when more citizens will be able to attend.

Thank you,
Barbara Bonilla
80525
Mayor’s response.

Sarah Kane  
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell  
970-416-2447 office

From: Wade Troxell <WTroxell@fcgov.com>  
Sent: Tuesday, March 3, 2020 12:43 PM  
To: BARBARA BONILLA <barbarab91@comcast.net>  
Cc: Ross Cunniff <rcunniff@fcgov.com>; CAO Admin <caoadmin@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Susan Gutowsky <gutowsky@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Ken Summers <ksummers@fcgov.com>  
Subject: Re: Hughes Property 2nd Reading

Hi Barbara:

Thank you for your email. There will always be conflicts to someone’s schedule on an agenda item on a particular night. There are multiple ways to share input with City Council including email. Please provide your input.

Regards,

Mayor Wade Troxell  
City of Fort Collins, Colorado

2017 Malcolm Baldrige Award - City of Fort Collins recognized for “an unceasing drive for radical innovation, thoughtful leadership, and operational excellence.”

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Sent from my iPhone
To: Fort Collins City Council and City Attorney

I am writing to request that the second reading of Ordinance No. 138, 2019, addressing the zoning for the property known as Hughes Stadium, be moved from March 17, 2020 to a date that does not conflict with the Poudre School District and CSU spring break. As you are well aware, many Fort Collins citizens are extremely concerned about the zoning for the Hughes Property. To hold the second reading during Spring Break when many families will be out of town seems unfair.

Please reconsider and move the date of the second reading to a time when more citizens will be able to attend.

Thank you,
Barbara Bonilla
80525
Mr. Walkup,

Thank you for your email. The Council voted on January 21 to postpone to March 17 its consideration of second reading of the ordinance rezoning the Hughes site. Any further postponement would also be by vote of Council, and would occur, if at all, at the time of consideration of the ordinance on March 17.

The ordinance was adopted on first reading on November 5, 2019. It was originally scheduled for second reading on November 19 and was at that time postponed to January 21, 2020.

Please note that Council does receive input via email and you and any others who have objections or concerns to express are welcome to submit those to Council via email in advance of the 17th. The "City Leaders" address includes all of the City Council and several members of City staff.

I have copied the "City Leaders" email distribution group so that Council and others will be aware of your request and my response to it.
Thank you again for your interest in this item, and for your effort to communicate your concerns.

~Carrie
Carrie Mineart Daggett
City Attorney
City of Fort Collins
300 La Porte Avenue
Fort Collins, CO 80521
970-221-6520
cdaggett@fcgov.com

-----Original Message-----
From: Ted Walkup <twalkup8@gmail.com>
Sent: Sunday, March 1, 2020 9:05 PM
To: Carrie Daggett <CDAGGETT@fcgov.com>
Subject: Second Reading on March 17

Ms. Daggett, as you are aware, the rezoning of the Hughes site remains a contentious issue in our community. A sizable number of Fort Collins residents continue to oppose the proposed rezoning, which is scheduled for its second reading on March 17. This date, of course, falls during Spring Break and on St. Patrick’s Day and, as a result, will likely provide an obstacle for many residents who want their voices heard during public comment.

I urge you to support postponing this second reading. A vote on March 17 would give the impression that Council is trying to dispose of this issue when fewer opponents are present to raise objections. For the sake of fairness and transparency, Council should facilitate public comment on this important issue by postponing the Hughes rezoning vote to a later date.

Thank you for your consideration.

Ted Walkup
3514 Pratolina Court
Fort Collins, CO 80521
Dear Fort Collins City Council,

Please reschedule the vote for the old Hughes Stadium site to sometime after the week of March 16th, since it is the week of Spring Break. This would give more people the opportunity to attend this important city council vote. The vote scheduled for March 17th really isn’t fair to both sides, since equal representation is a must for our city.

Thank you,
Ann Conroy
2038 Scarecrow Rd
Fort Collins, CO 80525

Sent from my iPad
Since the Hughes project will probably go forward in some fashion, I think you should consider less housing instead of more.

Thank you,
Ann Conroy

Sent from my iPhone

On Mar 1, 2020, at 9:29 PM, Wade Troxell <WTroxell@fcgov.com> wrote:

Hi Ann:

Thank you for your email. There will always be conflicts to someone’s schedule on any agenda item on a particular night. There are multiple ways to share input with City Council including email. Please provide your input.

Regards,
Mayor Wade Troxell
City of Fort Collins, Colorado

2017 Malcolm Baldrige Award - City of Fort Collins recognized for “an unceasing drive for radical innovation, thoughtful leadership, and operational excellence.”

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Sent from my iPhone

On Mar 1, 2020, at 2:45 PM, Ann Conroy <amcbookmom@msn.com> wrote:

Dear Fort Collins City Council,

Please reschedule the vote for the old Hughes Stadium site to sometime after the week of March 16th, since it is the week of Spring Break. This would give more people the opportunity to attend this
important city council vote. The vote scheduled for March 17th really isn’t fair to both sides, since equal representation is a must for our city.

Thank you,
Ann Conroy
2038 Scarecrow Rd
Fort Collins, CO 80525

Sent from my iPad
Date: March 2, 2020
To: Members of the Fort Collins City Council

I am writing to request that the Second Reading of Ordinance No. 138, 2019, addressing the Zoning for the property known as Hughes Stadium be moved from the March 17, 2020 agenda to a date that does not conflict with the Poudre School District and Colorado State University Spring Break.

As you are aware, the Community is extremely interested and passionate about the zoning for the Hughes Property. To hold the Second Reading during Spring Break, when many families have made plans to be out of town, seems disingenuous and unfair to interested citizens.

Please respect the Community and move the Second Reading to a more appropriate date.

Respectfully,
Colleen and Rick Hoffman
1804 Wallenberg Dr
Fort Collins CO 80526
March 8, 2020

To: Fort Collins City Council Members, Cameron Gloss, CSU Board of Governors

CC: Matt Bloom, KUNC

While the meeting set for 3-17-2020 is a zoning hearing, it is clear that the city’s proposed plan, the CSU/Lennar Agreement and the comments of many City Council members focus on how the property will be developed and therefore it is difficult to separate zoning and development.

We feel it is important to ask and receive answers to the following questions:

**Cameron Gloss**
1. Why after the P & Z Board recommended 100% RF did you almost exclusively disregard their recommendation and you presented your recommendation to City Council with just the briefest mention that the P & Z Board recommended 100% RF?
2. Why are you saying 500 - 550 units would be built on the Hughes property? We all know that you worked with CSU regarding the zoning. (We also know that the agreement CSU signed with Lennar states a minimum of 600 units and provides incentives for every unit built over 625 and also includes additional bonuses as units are sold.)
3. What is the exact number of units that can be built on the Hughes property with the LMN/RF zoning you have recommended? Not what you think it may be limited to, but the allowed maximum number? Please breakdown the allowed maximum number down by LMN and RF.
4. Why was the City Plan with identified growth areas implemented after CSU and Lennar signed their agreement regarding the Hughes Property?
5. Why after all of the feedback from the community to the City and CSU regarding the Hughes Property did you and your team only present housing development options for consideration?
6. Why if there is not a formal plan from Lennar for the Hughes Property, why are people meeting at the city building discussing the infrastructure issues for 550 units on the Hughes Property?
7. Why hasn’t the concept of a Public/Private/Philanthropic Partnership been explored, once which would still achieve both CSU’s and the State’s financial objectives?

**Colorado State University**
1. Cameron Gloss stated in a City Council Meeting that CSU refused to consider selling the Hughes Property to the City. Please explain why this decision was made.
2. The Hughes Property was a land grant for and by the people. The community should have a say in what happens to this property. The community has been very clear, time and again, regarding the use of the Hughes Property. Why did you completely discount the public input on the Land Grant Property?
3. Why, after CSU has been so vocal regarding affordable housing for your workforce, did you not make workforce housing a requirement of the sale?

**City Council**
1. Why is the 2nd reading of the zoning for the Hughes Property taking place during Spring Break? A time when the community has already made plans to be away and is not in a position to change plans.
2. When will City Council start demanding answers and information for example, when will the studies the community has requested be completed and results “published”?

Public Comments Received

November 6, 2019 through March 10, 2020
3. Many people in the community believe the Zoning for Hughes is a done deal. They find it hard to believe in transparency in government when secret meetings and communications continue among players. The realtors and were informed that the 2nd Hughes reading would not take place on November 5, 2019 hours before City Council voted to delay the vote. Mayor Troxell stated at the start of the City Council Meeting that he had not had the opportunity to speak with his fellow council members so how could the Realtors already know, and therefore found no need to be in attendance? It is clear that that group was warned off ahead of time.

4. Some council members continue to assert that affordable housing is desperately needed and believe it will be built on the Hughes parcel. The community would like to know, based on approved housing developments currently being built and/or considered, exactly how many affordable and attainable units will be built in each development.

5. Once zoning is approved, what control does the city have over how many affordable and/or attainable units are built if the plans submitted by a builder meet all codes and regulations?

6. Why aren’t affordable/attainable units being included in developments within the City Core which already has access to transportation and needed amenities?

7. Many of the cities starting out on the “Top Ten Places to Live” quickly lost their place because increasing population became more important than livability. The Fort Collins community wants Livability; what does the City and the City Council want?

While some of these questions may seem global, they do ultimately relate to the City Plan. Council members refer to the City Plan in discussions of identified growth areas, including Hughes, and the impact zoning will have on this area forever.

If you decide to support the recommendation of LMN/RF recommended by the City Planners, it will ultimately destroy or drastically alter/limit the night sky, wildlife habitats and access to Horsetooth Reservoir, also referred to as the “Crown Jewel of Fort Collins”. Safety in the foothill’s community will also be impacted since the City Plan identifies floods and wildfires as an ever-increasing threat as climate changes continue to occur.

Residents in the area as far back as the early 90’s, prior to the Ponds and Bella Vira developments, report that RF Zoning was fervently promoted and supported by the City to obtain buy-in that the buffer to the foothills would always be maintained as RF. Subsequently, home buyers in this same area have relied on this promise.

We ask that you vote no tonight and not support LMN/RF for Hughes. Rather, support the P & Z Boards recommendation of RF as a balanced solution among the Community, CSU and The City.

Sincerely,

Tamra Meurer
Mary Grant
March 5, 2020

SENT VIA EMAIL: cdaggett@fcgov.com
Carrie M. Daggett
City Attorney
City of Fort Collins
300 Laporte Avenue
Fort Collins, CO 80521


Dear Ms. Daggett:

We write with two concerns. First, we understand that council has received requests from several community members to postpone the second reading of the ordinance to a time that does not fall during spring break. Other than an acknowledgment that you received our last letter regarding the timing of the reading, we have not heard from you as to whether council has determined to go forward as planned on March 17, 2020, with the second reading.

Second, we understand that council members have not been provided the exhibits attached to Rory Heath’s ethics complaint due to the volume of the exhibits. We do understand that the exhibits will be made available at the hearing. A fair deliberation cannot be had by council if members of council are not provided with voluminous exhibits until the time of the hearing. If council is only provided copies of the exhibits at the hearing itself, the entire process is undercut as the entirety of the complaint cannot be understood or considered on its merits.
Sincerely,

HADFIELD STIEBEN & DOUTT, LLC

Sara K. Stieben, Esq.

SKS
Ms. Zook,

Thank you for your email. The Council voted on January 21 to postpone to March 17 its consideration of second reading of the ordinance rezoning the Hughes site. Any further postponement would also be by vote of Council, and would occur, if at all, at the time of consideration of the ordinance on March 17.

The ordinance was adopted on first reading on November 5, 2019. It was originally scheduled for second reading on November 19 and was at that time postponed to January 21, 2020. At that time it was again postponed to the next Council meeting at which all Councilmembers were expected to be in attendance.

Please note that Council does receive input via email and you and any others who have objections or concerns about the proposed rezoning are welcome to submit those to Council via email in advance of the 17th.

I have copied the "City Leaders" email distribution group so that Council and others will be aware of my response to your request. (The "City Leaders" address includes all of the City Council and several members of City staff.)

Thank you again for your inquiry about this item, and for your interest in communicating your concerns to Council.

~Carrie
Carrie Mineart Daggett
City Attorney
City of Fort Collins
300 La Porte Avenue
Fort Collins, CO 80521
970-221-6520
cdaggett@fcgov.com
Thank you for reaching out Ms. Zook and I am including the City Attorney so that she can respond.

Julie Pignataro
City of Fort Collins
Councilmember, District 2

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Good afternoon members of City Council,

I was recently reached out by several of my neighbors asking if there’s any way the "Second reading of Ordinance #138 regarding the re-zoning of the Old Hughes Stadium" be rescheduled to another date other than March 17, 2020. Not only is it St. Patrick’s Day, in which multiple people will be out celebrating, but also being on "Spring Break". Many of the people who reached out to me indicated that this is a very important meeting in which they want to attend; however, will not be in downtown. I told them to email you making the same request to change the date.

Many are speculating this date was set on purpose by the City Council, very well knowingly that half of Fort Collins would be out of town on Spring Break. I urge you to please consider changing the date so that the people of Fort Collins who voted for you may attend this meeting that is very apparent important to us all.
Sincerely,
Martha Zook

Dear Ms. Daggett:

As you may recall, this law firm has been retained by Mr. Rex Miller, Ms. Tamra Meurer, and Ms. Mary Alice Grant regarding the City Council’s decision to exercise its quasi-judicial powers to rezone the former Hughes Stadium site in west Fort Collins. I know you have spoken to my partner, Gordon Hadfield, regarding this issue.

Our clients request the opportunity to present a single focused presentation at the upcoming City Council meeting scheduled for January 21, 2020. Specifically, they would like to present information related to the origin of the RF zoning currently in place to the west of Overland Trial. They also request the opportunity to question staff members of the Planning and Zoning Department. I understand that public comment is currently limited to 3-minutes per speaker. Allowing a single presentation by a core group of the public will allow for a more efficient and less schizophrenic use of the City Council’s time. As a result, my clients are requesting a minimum of 20 minutes to present information and ask questions.

Please provide a response to this request by January 10, 2020.
Sincerely,

HADFIELD STIEBEN & DOUTT, LLC

/s Sara K. Stieben
Sara K. Stieben

SKS/ea
Greetings, City Council members,

I urge you to reschedule the second reading of Ordinance No. 138, 2019, addressing the Zoning for the property known as Hughes Stadium, to a date after March 17th which falls during the week of Spring Break. I propose that either of the two Council meeting dates in April would be more appropriate for this discussion, but keeping in mind any conflicts with public holidays or well-established periods for shut down of normal activities in large segments of the community, like Spring Break week for public schools and universities.

I received the updated six month planning calendar on Thursday, 2/26/2020, attached. The agenda for the April 7 City Council meeting shows three items: a second reading consent agenda item, a discussion of ebikes on paved trails following a one-year pilot, and a staff report on Census 2020. None of these items would likely require a significant amount of Council time. Another date, April 21, has no agenda topics listed other than a staff report. At this point in time, a rescheduling looks very reasonable.

The opportunity for citizens wishing to be present for the second reading of this important zoning proposal should not be denied by holding the discussion on a date which is a known conflict with Spring Break week for CSU and PSD.

I make this request in the interest of public participation, fairness and the importance of deliberating this decision in the presence of all interested citizens without unnecessary obstacles caused by the meeting date.

Respectfully submitted,
Kathryn Dubiel
Citizen of Fort Collins
Dear Council Members,

Please reschedule the second reading of Ordinance No. 138, 2019, addressing the Zoning for the property known as Hughes Stadium, to a date after March 17th. The opportunity for citizens wishing to be present for the second reading of this important zoning proposal should not be denied by holding the discussion on a date which is a known conflict with Spring Break week for CSU and PSD.

This request is in the interest of public participation, fairness and the importance of deliberating this decision in the presence of all interested citizens without unnecessary obstacles caused by the meeting date.

Sincerely,
Paul Patterson
2936 Eindborough, 80525
Cameron

Is this something you need to review or respond to?

Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

From: Mary Grant <msgrant026@gmail.com>
Sent: Sunday, March 8, 2020 5:59 PM
To: Susan Gutowsky <susan.gutowsky@gmail.com>; Wade Troxell <WTroxell@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Ross Cunniff <rcunniff@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Matt Bloom <matt.bloom@kunc.org>; Carrie Daggett <CDAGGETT@fcgov.com>; Sarah Kane <SKane@fcgov.com>; marc.sallinger@9news.com; Jacy Marmaduke <jmarmaduke@coloradoan.com>; CSU Board of Governors <csus_board@mail.colostate.edu>; Cameron Gloss <cgloss@fcgov.com>

Subject: We would appreciate answers to the questions contained in the attached document

City Council, CSU Board of Governors, City Attorney

We are requesting a formal response to the attached document.

Thank you.

Best,

Mary Alice Grant
703-969-9555

CC: New Media

Any comments received between March 25 until 12:00 pm, March 31 will be provided in the read-before packet given to Council on March 31.
Should this be included in your records?

I haven't been copying you on all the emails I'm getting regarding postponing Hughes item, but this one talks about their viewpoint, not their request to cancel.

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

-----Original Message-----
From: Eclectic Reader Books -Gmail <eclecticreaderbooks@gmail.com>
Sent: Sunday, March 15, 2020 5:59 PM
To: Carrie Daggett <CDAGGETT@fcgov.com>; Wade Troxell <WTroxell@fcgov.com>; Darin Atteberry <DATTEBERRY@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Ross Cunniff <rcunniff@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Jeff Mihelich <jmihelich@fcgov.com>
Subject: Hughes Stadium

To All,

I would like to once again register my support for the preservation of the Hughes Stadium land as an open space natural area. To bow to the pressures of Lennar and CSU for the complete development of land that should remain in its natural state for future generations is contemptible greed. This would create irreversible damage for the next hundred years or more. Vote with your conscience.

Cynthia Manuel
970-2234019

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This email has been checked for viruses by Avast antivirus software.
https://www.avast.com/antivirus
City Council,

As a concerned citizen, and in light of the current State of Emergency, I ask that City Council postpone its discussion on the Hughes Stadium development to a further date when citizens will be able to gather at City Hall accordingly to voice their concerns and questions.

Thank you

NR

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Nathalie Rachline
nathalie.rachline@comcast.net / nathalie.a.rachline@gmail.com
Business Strategy, Operations, and Transformations
Member of the Board - SIM Colorado - Chair membership
Member of the City of Fort Collins Transportation Board - Vice Chair
Member of the Board - Off the Hook Arts - President
+ 1 (970) 215 07 05
Skype: rachline.nathalie
Hello Simla and Josh,
Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

. . . . . . . . . . . . . . .
Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

-----Original Message-----
From: Simla <simla.somturk@gmail.com>
Sent: Sunday, March 15, 2020 8:42 AM
To: Sarah Kane <SKane@fcgov.com>
Subject: Please POSTPONE second hearing of Hughes Stadium hearing/decision sesssion...

... so that we can participate in our civic duty to keep each other safe by staying in our homes right now. Citizens have a right to show up safely and in a timely manner to participate in this decision. Right now it’s not that time.

Thank you and respectfully,

Simla Somturk & Josh Mooradian
Residents - Fort Collins / Overland Trail area

Sent from my iSimla
Hello Samara,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

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From: Samara <samaracohen@hotmail.com>
Sent: Sunday, March 15, 2020 10:34 AM
To: Sarah Kane <SKane@fcgov.com>
Subject: PLEASE POSTPONE HUGHES REZONING MEETING

I am writing as a concerned citizen in light of the COVID-19 crowd restriction to please postpone the Hughes rezoning mtg that is scheduled for Tues. March 17. Residents deserve a fair voice to be heard for this meeting. This development affects many residents that live in the area, not to mention how it will impact school classroom numbers and traffic flow.

Samara Cohen
Hello Lindsay,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

-----Original Message-----
From: Lindsay Morgan <Lindsette@comcast.net>
Sent: Sunday, March 15, 2020 3:23 PM
To: Sarah Kane <SKane@fcgov.com>
Subject: Please cancel the March 17 City Council Meeting

Dear Ms. Kane,

It would be irresponsible not to cancel the March 17th City Council Meeting. The COVID-19 Virus is an international Pandemic and puts the citizens of Fort Collins at risk for their lives. Added to that, the Hughes Property Re-zoning vote is extremely important to many of the citizens who have worked very hard on trying to find a reasonable compromise to the plan of 600+ houses, condos, duplexes, and apartments presented by a very questionable developer. It is simply NOT FAIR for the City Council to slip this issue under the table and take advantage of the fact that few citizens will compromise their health in order to be heard in person by the Council before vote. We will continue to object and fight against this kind of tactic.

Sincerely,

Lindsay Morgan
Hello Rose,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

. . . . . . . . . . . . . . . .
Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

-----Original Message-----
From: Rose Macalister <r_macalister@yahoo.com>
Sent: Monday, March 16, 2020 8:40 AM
To: Sarah Kane <SKane@fcgov.com>
Subject: Council meeting 3/17/20

I am requesting for city council to consider cancelling tomorrow’s meeting d/t the recommendation by state federal authorities to maintain social distancing. I want to go but concerned about the number of people who may be there and my risk for being affected by the Covid-19 virus. Please postpone the meeting to a time when the infection rate and risk is less, to allow for community participation and in person comment.

Rose Macalister
2931 Pleasant Valley Rd
Fort Collins
Sent from my iPhone
Hello Susan,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

Hi Sarah,

I am sure city council is aware of recent CDC recommendations so, here they are. Following new recommendations from the Centers For Disease Control and Prevention, the Larimer County health department also urged the cancellation or postponement of events with 50 or more attendees. The CDC's recommendation is to hold off on such events for at least eight weeks and does not apply to "the day-to-day operation of organizations such as schools, institutes of higher learning, or businesses.

I hope there will be a way for citizens who are at risk and unable to attend to remotely participate in the meeting.

If not, it seems to send a cynical message, either that concerns about the coronavirus and the importance of social distancing don't apply to council or citizens of Fort Collins or two, that community participation in the meeting will be compromised due to people unable to attend.
I am surprised the meeting is not being postponed. It seems like a good opportunity for city leadership to model good social distancing practices to keep our community safe.

Sincerely,
Susan Aubin
Hello Trish,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

From: Trish Babbitt <chaang61@gmail.com>
Sent: Monday, March 16, 2020 10:09 AM
To: Wade Troxell <WTroxell@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Ross Cunniff <rcunniff@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Carrie Daggett <CDAGGETT@fcgov.com>; CAO Admin <caoadmin@fcgov.com>; Matt Bloom <matt.bloom@kunc.org>; marc.sallinger@9news.com; Jacy Marmaduke <jmarmaduke@coloradoan.com>; tips@coloradosun.com; Darin Atteberry <DATTEBERRY@fcgov.com>; Jeff Mihelich <jmihelich@fcgov.com>; denis@democracynow.org
Subject: Please listen to CDC and CANCEL 3/17/20 City Council Meeting

City Council Member and Other City Staff,

While I wish I could be sending you an email thanking you for your service, that isn’t the purpose of this email. Instead, I am writing to ask you to seriously take into consideration the CDC’s announcement that large events expecting more than 50 people should be banned due to the dangers of the Coronavirus.

https://www.nbcnews.com/health/health-news/cdc-recommends-canceling-all-events-50-people-or-more-until-n1159771

Hopefully you will take the CDC announcement seriously and postpone the tomorrow’s scheduled City Council meeting, in which (among other things) members will vote on the zoning for the Hughes Stadium property. I know that you’re hoping for fewer than 50 people to show up for this event, but I, personally, am planning to take my chances and attend if it is decided that the meeting will proceed as planned. I’m very concerned about the future of our wildlife and our children, and as much as I don’t like attending meetings in any situation, (and I’d definitely prefer not to attend tomorrow!), I will, if necessary.

Unfortunately, over the past several months, it has become clear to many of your constituents, including myself, that most of you have shown a tendency to put the wishes of developers and those in charge of large institutions above the wishes of those who voted for you to represent our views. If this weren’t the case, how could the decisions regarding the zoning of Montava, Hughes, and the ethics review board resulted in the way that they did over the recent months?

It was also very obvious to those of us who have dealt with CSU over the years that when you chose March 17 as the date for the decisive vote on zoning for the Hughes Stadium land, that you had adopted CSU’s tactic of waiting until a vacation time to make an important vote—fully aware that this would be a time when many concerned citizens would be away with family, likely visiting other far-away family members, or taking a long-awaited trip that couldn’t be taken during regular work time. We have seen this strategy used over, and over again--and many of us were disappointed and disgusted to see our City Council use it for scheduling the Hughes Stadium zoning vote date.

Hopefully you will show your Fort Collins constituents that even though you haven’t voted on their behalf in the past, you will at least show concern for the health of the people who are fighting the developers out of concern for our precious wildlife. Please listen to the CDC and postpone tomorrow’s very important meeting until it will be safer for everybody to continue the discussions scheduled for tomorrow.

Thank you,
Patricia K. Babbitt
309 Scott Ave.
Fort Collins, CO 80521
Hello Valerie,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

From: Freymuth, Valerie <valerie.freymuth@colostate.edu>
Sent: Monday, March 16, 2020 10:21 AM
To: Sarah Kane <SKane@fcgov.com>
Subject: Please cancel the City Council meeting on Tuesday 3/17/20

Please cancel the City Council meeting on Tuesday 3/17/20 or at least cancel the vote on Hughees zoning due to covid-19 and spring break.

Valerie Freymuth
Hello Nathan,

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

“March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31”

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

From: Nathan Robinson <nrobins133@gmail.com>
Sent: Monday, March 16, 2020 10:39 AM
To: Sarah Kane <SKane@fcgov.com>
Subject: March 17th city council meeting

Hello-

I am writing to urge city leadership to postpone the city council meeting scheduled for tomorrow, March 17th. The latest CDC recommendation for social distancing during the developing COVID19 pandemic is to not hold any gatherings of more than 50 people. With such a locally contentious item as Hughes stadium property rezoning on the agenda, tomorrow night's council meeting will certainly draw at least that many people. Though we currently have only one confirmed case of COVID19 in Larimer County, testing had been limited and people may be infected with COVID19 and show few or no symptoms, and the virus may thus be more prevalent in our community than we are currently aware. Being an RN at a local hospital, I am acutely aware of the extreme strain an outbreak is likely to place on our local health care system, as well as the additional risk that such a scenario will pose for me, my colleagues, and our families. I believe that it would be irresponsible of the City of Fort Collins to hold tomorrow night's council meeting as scheduled, and I urge city leaders to show the leadership for which they were elected or appointed and postpone the meeting.

Thank you.

Nathan Robinson
Hello Ms. Hartman,  
Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31

Thank you.

Sarah Kane

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Sarah Kane  
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell  
970-416-2447 office

From: Kirsten Hartman <kirstenhartman@comcast.net>  
Sent: Monday, March 16, 2020 10:43 AM  
To: Ross Cunniff <rcunniff@fcgov.com>; CAO Admin <caoadmin@fcgov.com>; Emily Gorgol <egorgol@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>; Sarah Kane <SKane@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Wade Troxell <WTroxell@fcgov.com>  
Cc: ‘Ed Meek’ <edmeek@comcast.net>  
Subject: Cancel City Council Hearing

Dear Council Members and Mayor  
I am writing to URGE you to consider cancelling the Second Reading addressing the Zoning for the Hughes Stadium Property on March 17,2020. My reasons for this request are numerous, but the main one is that due to Corona Virus precautions, many people will be unable to attend the hearing.

The second reason for this request is that in light of the virus, at this point we have no idea what the city will need in one year or five years. Yes, the devastating financial impacts may make the rezoning of Hughes Property even more ridiculous than it currently is.
Kirsten Hartman
6715 Enterprise Dr B-104 (until very recently homeowner in Quail Hollow)
Fort Collins, CO 80526
Hello Mary

Please see the press release notifying the public of the changes to tomorrow’s Council meeting.

https://www.fcgov.com/news/?id=7689

March 17 City Council meeting modified for remote public participation; Hughes Stadium agenda item recommended for postponement to March 31

Thank you.

Sarah Kane

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Sarah Kane
Executive Administrative Assistant to Deputy City Manager Jeff Mihelich and Mayor Wade Troxell
970-416-2447 office

Good Morning All,

I am writing to find out the status of the 2nd Reading of the Zoning for Hughes Stadium, I saw on the Larimer County Website that they are urging the cancellation of all gatherings over 50 people (See Below). The disposition of this issue is very important to me and the Fort Collins Community as is evidenced by the high turnout every time the Hughes property is on the agenda. I am over 65 and I do have complicating health issues. Please let me know if the 2nd reading will be postponed or if I need to show up on Tuesday 3-17-2020 in the event that this issue is actually discussed during the City Council Meeting. If this issue is going to be discussed, what precautions will be in place for people like me who will be attending so that my voice is heard?
Restrictions and Guidelines for Events, Large Gatherings, and Public Spaces

Rather than waiting for additional positive test results, public health officials have issued proactive protective measures to minimize the impact of COVID-19. Larimer County Public Health Director, Tom Gonzales, has issued a public health order requiring the cancellation or postponement of events with more than 250 attendees and the closure of senior community centers in Larimer County. This order is intended to prevent an increase in the number of people with serious infections, resulting in an overwhelmed healthcare system.

We are also urging the following:

- The cancellation or postponement of events with 50 or more attendees for the general population.
- People at high-risk for severe illness from COVID-19 (aged 60 or over, those with underlying health conditions, and pregnant people) not attend events, public areas, and business locations where 10 or more people will be gathered.
- Elective surgeries and non-critical medical appointments should be postponed until further notice to conserve medical resources.
- Avoid all nonessential travel. Travel in and out of the community is highly discouraged.

If you are planning to attend any social gathering of any size, take precautions to lower the chances of getting sick yourself or spreading respiratory illness to others.

- Stay home if you are not feeling well
- Avoid others who are sick
- Cover your cough and sneeze with a sleeved arm or a tissue
- Wash your hands regularly with soap and water. Alcohol-based hand sanitizer with at least 60 percent alcohol is also effective against COVID-19
From: Barbara Gotshall
To: City Leaders
Subject: Hughes Stadium Property
Date: Monday, March 16, 2020 2:22:14 PM

Dear City Council Members:
It is a grave mistake to make the Hughes Stadium into housing developments. What a tragedy it would be. This property is one of the few undeveloped pieces of land between Overland Trail and the foothills and for the sake of the citizens it should be preserved as open space, land for all to enjoy. A partnership between the City and County and CSU with funding from the State could keep this land from development and maintain Fort Collins as a beautiful place to live. The council should think long-term and of future generations rather handing this precious land over to developers.
I do hope that you postpone your Tuesday vote in the midst of the coronavirus crisis and wait until a time when citizens can safely attend the city council meeting and voice their concerns and opposition.
Thank you.
Barbara Gotshall
2509 Tucker Court
Fort Collins, CO 80526
970-217-2035
bhgotshall@gmail.com
Council Members:

By now I hope Council has made the decision to postpone Fort Collins City Council meetings (gatherings of over 50 people) based on the strong recommendation of the Center for Disease Control.

Considering the heightened interest in matters before Council, many people have planned to attend and comment on critical agenda items. However, the CDC’s caution will keep many, if not most, away.

Many city events and activities have already been postponed or cancelled and some facilities have closed. Why not Council meetings and council-related gatherings?

I sincerely hope you will not move forward with major Council decisions without the fullest involvement of your constituents.

Regards,
Karen Wagner
Dear City Council Members,

I strongly oppose the development of the Hughes Stadium property for housing. This is one of the few undeveloped stretches of land between Overland Trail and the foothills, and it should be preserved as open space. A partnership between the City, the County and CSU, with funding from the state, could make this happen. We don't need more housing of any kind hemming us in from the foothills and mountains that make Fort Collins such a beautiful place to live.

I would like to attend the meeting Tuesday night but will not because it is irresponsible considering the threat of Coronavirus. In fact, I'm surprised that you would hold a public meeting on such a controversial issue in the midst of this crisis.

Sincerely,

Mary Humstone
4420 Bingham Hill Rd
Fort Collins, CO 80521
970 420-5275
humstone@gmail.com
Thank you!

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From: Emily Gorgol <egorgol@fcgov.com>
Sent: Monday, March 16, 2020 9:32 AM
To: Adam Musielewicz <a_musielewicz@hotmail.com>
Cc: Delynn Coldiron <DECOLDIRON@fcgov.com>
Subject: Re: Development of old Hughes Stadium Area

Hello Adam,

As this is a quasi-judicial matter I cannot discuss this matter in detail. I am copying the City Clerk so your comments will be part of the record.

Thank you,

Emily Gorgol
Pronouns: She, Her, Hers
City of Fort Collins
Councilmember, District 6
970-556-4748

With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can’t guarantee that any email to or from Council will remain private under CORA.

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From: Adam Musielewicz <a_musielewicz@hotmail.com>
Sent: Monday, March 16, 2020 9:14 AM
To: Emily Gorgol <egorgol@fcgov.com>
Subject: Re: Development of old Hughes Stadium Area

Hi Emily,

I just wanted to follow-up to this email I send a while ago. Did you receive it?
It seems there will be a 2nd reading of this proposal tomorrow. Due to the virus, I will not be there in person. However, I strongly oppose any development of the Hughes area and prefer it to be left alone. I wanted to reiterate my view as one of your constituents.

Thank you for you representation.

Adam Musielewicz

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From: Adam Musielewicz  
Sent: Saturday, February 8, 2020 1:45 PM  
To: egorgol@fcgov.com <egorgol@fcgov.com>  
Subject: Development of old Hughes Stadium Area

Hi Emily,

Hope this email finds you well. My name is Adam Musielewicz and my wife, 2 boys and I live in the Rogers Park neighborhood. We feel lucky and fortunate to live where we do. From good neighbors to access to foothills trails, we are grateful for our neighborhood.

I know there had been some public meetings about the development of the old Hughes Stadium area. Unfortunately, we were not able to attend, and while it is likely a bit late, I wanted to share my view that I oppose the development of this area for housing.

I value the areas around me (like Maxwell and Reservoir Ridge) that offer opportunities to enjoy the outdoors, family friendly style. I would like to see the same with the Hughes Stadium area. I understand that our city is growing and will continue to do so, but sprawling outward I don’t believe is the best practice. Though it has it’s own challenges, I think investing in (affordable) housing, building vertical, it better route.

Also, simply, I believe over development ousts wildlife from their home. We are so lucky to have wild and semi-wild places right next to us, and I feel strongly we need to protect them.

If deliberation is still occurring regarding development, then I hope this email provides more input.

Thank you,

Adam Musielewicz (2524 W. Plum St.)
To: Council Members
From: Susan Taylor, 2608 Kansas Drive, G-145, Fort Collins, CO
RE: Tuesday Council Meeting

I am very interested in attending the proposed council meeting to make a final decision on a development plan for the Hughes Property. However, I will not be able to attend due to the Coronavirus limits on gathering more than 50 people in one location - and actually that is too close contact for someone my age - 78.

I respectfully ask that you postpone this meeting until a time that it is safe for community members to attend. Literally every other activity that I engage in has been canceled to keep people safe from the virus. I don't understand why this meeting would go forward at this time.

Thank you for your consideration.
Note: please excuse the previous email which contained an error -- this one is corrected --

Dear Mayor Troxell and members of City Council,

Looking at the City's website and the agenda for this week's Council meeting, it appears that the Council meeting this Tuesday will proceed as usual, since there is no announcement to the contrary.

As we are all aware, the COVID-19 pandemic poses serious health dangers, and extraordinary public health measures are needed. While the officially reported confirmed COVID-19 incidence in Larimer is low, it would be mistaken to assume this means that the virus doesn't now pose a risk locally, and that extraordinary public health measures are not needed. To the contrary, there is strong reason to believe that official numbers lag significantly behind actual infections -- and that any delay in implementing extremely strong precautionary measures can (almost certainly will) result in significantly higher COVID-19 infections with major negative consequences.

Analysis of COVID-19 trajectories in different countries shows COVID-19 presence and exponential increase in infections preceding official numbers (presumed and confirmed infections), especially when testing is very limited and inadequate to identify early non-symptomatic infections as is the current situation in Colorado and in Larimer County.

What is clear is that containment requires extraordinary public health measures that minimize to the greatest degree possible COVID-19 exposure and possible transmission among people, and implementation of public health measures sooner rather than later. With the COVID-19 epidemic, sooner means immediately, not in 2 or 3 days. Coronavirus: Why You Must Act Now makes clear the terrible consequences of waiting for official infection numbers to climb before implementing extraordinary public health measures to prevent spread of COVID-19.

Fort Collins residents appreciate the tremendous commitment by City Council to proceed apace with Council business. However, in this highly unusual time, extraordinary public health measures to contain COVID-19 should take priority.

Proceeding with a City Council meeting this Tuesday will bring together Council members, City staff, law officers, and possibly dozens of other people, all in close proximity in the Council chamber -- a situation that will put these people in danger of COVID-19 exposure, and many others who could be subsequently exposed to COVID-19, as well as increasing risk to our community's health system. For people above 60, the risk from COVID-19 infection rises significantly, from 3.5% mortality to 15% mortality.
Please prioritize and take immediate public health measures to contain COVID-19 -- including not proceeding with a Council meeting-as-usual on Tuesday, or after, until such time as the public health situation becomes safe again and participation does not pose risk to individuals and to the community’s health.

City residents should not need to consider if attending a Council meeting they deem important is worth risking an infection that -- especially to older people -- could be fatal.

Respectfully,
Doug Henderson
To whom it may concern:

I woke up this morning disappointed that there was nothing to read by email, on any government websites or in the Coloradoan newspaper from our local leadership. It's been 5 days since the federal government started showering us with mandates and directives. It's been 4 days since Colorado Governor Jared Polis started making huge decisions for our state's safety. The only city council/mayoral uttering we have heard is about whether to delay the Hugh’s stadium development proposal vote. Yes, delay the vote; it is of NO importance next to protecting our community from a Pandemic! Some of us are using social media to stay informed; we are supporting one another keeping our social distance, washing our hands and "holing up" to do our part to prevent the exponential spread of this virus. We have read the countless emails from organizations in our full lives that have shut their doors to the public. We have researched our questions and educated our families and friends. We know that COVID-19 is particularly dangerous because it is novel meaning it comes from another species and we have no natural immunity against it. Collectively, I believe we are doing what we are supposed to be doing to protect ourselves and others. What about the others in this town? What about those who get their only information from the Coloradoan? There has been no community address from our mayor. He could sit in his living room and record a “fireside chat” and send it to the city website administrator to post. He could do a tele-chat interview with the Coloradoan and they could put it front page so all the folks out there that use the newspaper as a viable source of information could have a sense of leadership. This clearly is unprecedented and super scary for businesses, individuals, schools and government so we should be educated and reassured from our local leaders. City Council leaders could access those pesky databases and send out an email, text or robocal assuring the community that they are indeed working behind the scenes. The silence from local leadership is dangerous and alarming. By not reaching out to Fort Collins citizens directly, the mayor and city council are failing those who need leadership the most. There are plenty of people in this town that don’t have the savvy, sense of responsibility or resources to be practicing the basics of protecting themselves and others. It is past time for local leadership to do their part to advocate and protect the entire community.
Thank you for your consideration,
Tara McCormac
Fort Collins, Colorado
Honorable Fort Collins city leaders,

Have you cancelled the City Council meeting tonight, 3/17/20, due to Covid19 health threat? We haven't seen such note.

Please kindly ensure responsible, "in-charge" persons will take the lead and postpone meeting and voting.

There is a high likelihood that this will yet be another crowded, high density meeting, due to more contentious issues. Thus presenting a high likelihood of further unmeasured accelerated virus spread. Consequently potentially exposing many more citizens eventually than just the ones present at the meeting.

It seems, common sense suggests, based on former meetings and status quo of nationwide developments, that it is neither safe & wise to proceed with this meeting, with it previous form, today. Especially considering the most recent developments & orders in CO and Larimer County.

What are you planning to do?

Regards,
Gabriele
Hello Council and members of City staff:

I would like to request the city respect the current pandemic, the safety and health of its citizens, and the guidelines set by the Centers for Disease Control: https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html

The meeting currently scheduled for Tuesday evening, open to the public, generally has over 50 in attendance in a small, confined space. This is in direct violation of the guidance set nationally and being followed by most major cities at this moment.

Even more seriously, some citizens wishing to attend / speak / participate, as well as some members of Council, are considered part of the “Vulnerable Population”. It is recommended they not only follow general safety guidelines, but even go as far as preemptively self-quarantine.

Holding a public meeting in the face of this crisis is an obvious and severe breach of public trust and confidence, and would set a precedent that ignoring warnings directed at health and safety is acceptable.

I am sure you will make the right decision here and continue to provide steadfast guidance and leadership to Fort Collins.

—
Nick Frey
The NMF Group, LLC
nfrey09@gmail.com
970.215.2826
—
Dear Mayor Troxell,
Thank you for your response. As I am certain you and our county's health director are abundantly aware this is a fluid situation. The CDC as of just a few hours ago is now recommending all gatherings of 50 people or more to be cancelled.
Sincerely,
Roxanne Griffin
Resident of Fort Collins

On Sunday, March 15, 2020, 5:26:17 PM MDT, Wade Troxell <wtroxell@fcgov.com> wrote:

Dear Roxanne:

We are looking at various options to be responsive to Gov. Polis’ 250 person gathering mandate and the recommendations from the county’s health director. More to come tomorrow.

Regards,

Mayor Wade Troxell
City of Fort Collins, Coloradoan

2017 Malcolm Baldrige Award - City of Fort Collins recognized for “an unceasing drive for radical innovation, thoughtful leadership, and operational excellence.”

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---
Sent from my iPhone

On Mar 15, 2020, at 9:15 AM, roxanne griffin <turningrox@yahoo.com> wrote:

Dear City Leaders,
In light of the coronavirus and recommendations of the CDC for at risk populations, I request postponement of the upcoming meeting on March 17, 2020.

As you know a large crowd is expected which should be of
concern to you personally as well as concerns for those residents you represent. Also there are citizen's voices that may not be heard due to the recommended social distancing that otherwise would have been at the table.

Sincerely,
Roxanne Griffin
Resident Fort Collins
Dear city leaders,

I am writing today to ask you to delay the vote on Hughes stadium rezoning currently scheduled for March 17, in light of the rapidly escalating COVID-19 situation and city emergency declaration. Myself, along with MANY members of the community are planning to attend this meeting and at this point would put ourselves at risk by being with such a large gathering.

Citizens should be allowed to voice their opinions, and to do so safely. This vote should NOT continue without community input, and at this time as it's unsafe for such a large gathering I'm asking you to delay the vote until it's safe for us all to gather together once again.

I appreciate your quick attention to this matter,

Jamie Callahan, RN
2450 Hampshire Rd #17,
Fort Collins, CO 80526
To All City Council Members:

I'm hoping that the meeting which is now scheduled for March 31 is rescheduled way into the latter part of April. I, for one, am a very high risk individual (on Chemo drugs). The public's health should come first vs. scheduling a meeting about Hughes. I hope you all reconsider and look further down to April, perhaps even late May. Thank you.

All stay well. Take care.

_Beverly_

Beverly Hill
3605 Mead Street
Fort Collins, CO 80526
Phone: 970-226-1386
Fax: 970-226-2014
PUBLIC COMMENTS RECEIVED FROM MARCH 26 THROUGH April 15, 2020.

Any comments received between April 16 until 4 pm, April 21 will be provided in the read-before packet given to Council on April 21.
Hello City leaders!

I see the agenda for City Council tonight has Hughes listed last with a recommendation from the City Manager to postpone the hearing until April 21. With the latest Federal regulations encouraging us to stay at home until at least April 30, I'm requesting that this issue be postponed until after that date. We've learned that an online meeting is not an effective way for the City staff to conduct a public forum. This issue is important to hundreds in our community, and many do not have access to computers with video conferencing capabilities. Those of us who do have access saw how ineffective it was to try to meet that way earlier this month. Please do the right thing by our community and country to prevent the spread of the virus, and delay this meeting until May.

Thank you.

Best,
Becca LaPole
80526

On Thu, Mar 12, 2020, 10:48 AM Rebecca LaPole <beccalyn137@gmail.com> wrote:

Dear City Councilmembers,

I am writing to request that the Second Reading of Ordinance No. 138, 2019, addressing the Zoning for the property known as Hughes Stadium be moved from March 17, 2020, to a date that does not conflict with the Poudre School District Spring Break, and is not in the middle of a possible coronavirus outbreak. As you are aware, the community is extremely interested and passionate about the zoning for the Hughes Property. To hold the Second Reading during Spring Break, when many families have made plans to be out of town, seems disingenuous and unfair. It also does not seem to be a good time to get many vulnerable members of our community together during a worldwide health crisis. We are also awaiting the final result of the ethics investigation into Mr. Summers’ business; yet another reason to move the Second Reading.

Please respect the community and move the Second Reading to a more appropriate date.

Thank you.

Love & Light,
Becca LaPole
Zip Code: 80526
Hi Colleen –

Thank you for your feedback. I will add this to Council’s read before file tomorrow.

Delynn Coldiron
City Clerk

From: Colleen Silan <colleen@silanmercer.com>
Sent: Monday, March 30, 2020 2:40 PM
To: Ross Cunniff
Subject: Minimize development at Hughes Stadium

of course, I’d prefer that you didn’t develop at all, but I presume that’s not possible.

Thanks and regards,
Colleen Silan
1325 Birch
Fort Collins
80521
Date: March 30, 2020

From: Rich Stave, Average Member of Fort Collins Public

To: Fort Collins City Council

RE: March 31, 2020 Council Meeting – Removal of consent agenda item 10 regarding the sale of public property adjacent to 525 N Whitcomb Street for discussion

Regarding the First Reading of Ordinance No. 051, 2020, Authorizing the Sale of Real Property Located Adjacent to the Utilities Service Center at 700 Wood Street.

I’m not a real estate attorney however there appear to be multiple troubling issues regarding a sale of public property to a private party for this property in particular;

1) Taxes on the property in question have previously been and are currently paid by the public. My understanding about public property owned by the City of Fort Collins is for use in the best interest of its citizens. If normal adverse possession requires the interested party to pay taxes for a period of time where is the receipt? Why wasn’t it included in the application? Are back taxes to be collected by the county Treasurer?

2) Where can one find the application to turn public property over to a private party? Is it online?

3) If there is an interest to sell a piece of public property should it be offered during a public auction so that all have the chance to evaluate for a bid?

4) Whom is responsible to monitor potential negative actions taken on public real property? This property is within direct sight and sound of major public buildings and appears to have been suggested for sale by an entity involved. Was there an investigation leading up to the proposal? Where is this document? Why wasn’t it included in the council packet? Which city board(s) deliberated the sale and voted in affirmation?

5) A building and/or fencing appears to have been recently added. A quick check of public records did not show a permit was pulled. Was a permit pulled? Was building code and setback followed? Were fees collected? Did a contractor do the work and at whose direction and expense? Does this sale imply that all this can be ignored and is ok?

6) Buried within the sale appears to be an automatic exemption from change of zoning use. How does it apply to the Hughes stadium site but not here? It appears the zoning change would require at least following the process. Does it require a zoning hearing or an appeal? When is (was) it scheduled? Can the public attend?

7) Is this a quid pro quo transaction? Is there a private benefit without a public one? Was there another agreement not benefitting the public at large?

Sincerely submitted for inclusion and discussion,

Rich Stave
My comments about this item are attached in case of interruption of services.
City Council Members,

Just a quick note to ask you to delay any action on the Hughes Stadium property until such time as the quarantine is lifted and citizens are able to participate.

Respectfully,

Dave Grossett
Good Afternoon.
Hope you are staying well and your families are healthy during this crisis.

Considering the disruption in our lives, in city government, and the distractions in our midst, I have a request for when you meet tomorrow.

Please vote to postpone the Hughes Second Reading to April 21st or later, after our community is able to attend City Council and weigh in on this important decision. Considering how difficult it is for most people to participate remotely in the process and have quality audio, the best decision is to hold off on a final vote for when stakeholders can weigh in.

Thank you for your consideration.

Renee P. Walkup
80521
Hi Karen –

Thank you for your feedback. I will add this to Council’s read-before packet for tomorrow’s meeting.

Thanks,
Delynn Coldiron
City Clerk
decoldiron@fcgov.com

From: Karen Kalavity <integradesign1@yahoo.com>
Sent: Monday, March 30, 2020 11:23 AM
To: egorgol@fc.com <egorgol@fc.com>; Ross Cunniff <rcunniff@fcgov.com>; Ken Summers <ksummers@fcgov.com>; Julie Pignataro <jpignataro@fcgov.com>; Kristin Stephens <kstephens@fcgov.com>; wtroxall@fcgov.com <wtroxall@fcgov.com>; Susan Gutowsky <sgutowsky@fcgov.com>
Subject: Hughes Stadium -Let’s do what’s right, not what the developers are selfishly pushing for

Ft. Collins City Council Members,

When it comes to the Hughes Stadium "redevelopment", it has become increasingly evident that shady developers are being given preference over people and the environment in Ft. Collins. Or... even people in the State of Colorado, who really own the property.

CSU is a land grant college in Colorado, not a private college or real estate concern to be sold off to the highest, or in this case, the lowest bidder...Lennar Homes.

CSU is a land grant college put together to EDUCATE its citizens, not to provide raw real estate so that for-profit developers can make even more money at the expense of the public.

Please, Ft. Collins City Council, please exercise some version of ethics and respect your own fiduciary duty and moral obligation to the public and turn down this deal with the devil that many of you have willingly entered into.

I noticed, with interest, that at the last Ft. Collins City Council meeting, the only City Council members present were the ones who had done the right thing in the first place, by voting against the Hughes Stadium takeover by developers.

Apparently, the members, including the mayor who had voted for the Hughes stadium development in the past were, conveniently, not in attendance. I guess you were practicing "social distancing" from the crowd of constituents who are there to protest the selling out and selling off of public lands that should be used for a far greater use than to become another high density, non-sustainable, non-community for out-of-state developers with nothing more than...
profiteering on their minds.

Please...do the right thing and vote this damn development atrocity out the window...NOW, on Tuesday, or whenever the vote will actually take place.

Sincerely,
Karen Kalavity
CSU ALUM and a person who has personally been screwed by Lennar Homes and its "associates"
Please vote YES to delay the Hughes 2nd reading until April 21st.
Oops, nevermind; sounds like Doug has already emailed it to everyone :)

Julie Pignataro
City of Fort Collins
Councilmember, District 2

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Delynn,

I hope you are well!

Please include the email below with the read-before packet and any other Hughes emails. Thanks,

Julie Pignataro
City of Fort Collins
Councilmember, District 2

With limited exceptions, emails and any files transmitted with them are subject to public disclosure under the Colorado Open Records Act (CORA). To promote transparency, emails will be visible in an online archive, unless the sender puts #PRIVATE in the subject line of the email. However, the City of Fort Collins can’t guarantee that any email to or from Council will remain private under CORA.

From: Doug Finnman <dfinnman72@yahoo.com>
Sent: Monday, March 30, 2020 10:07 AM
To: Julie Pignataro <jpignataro@fcgov.com>
Subject: Hughes Stadium Site
Dear Councilmember Pignataro,

I am a property owner in Council District 2, and I am writing you regarding my concerns about the proposed zoning and development of the Hughes Stadium site. My main concern is about the current 600-700 homes planned at this site. I believe this is an inappropriate development plan for the Hughes site, and I urge Council to find a more sustainable, community-friendly alternative that honors the natural beauty and uniqueness of this property.

As with many others in the community, I would love to see the Hughes property remain the valuable open space it is now for current and future community members to enjoy. I understand that option is likely not on the table now, given CSU's sale of the property to a developer. Given this, I urge Council to strongly consider a clustered residential foothills zoning designation for the property, that would result in considerably more open space left intact. This likely will not suit the interests of either CSU or the developer to maximize the economic value of the property, but I believe would be a better overall decision given the natural amenities of the property and recognizes broader community interests of valuing and preserving this important gateway to Fort Collins and County natural areas.

Fort Collins has only one space like the Hughes property - it is a tremendous gateway to the foothills and Horsetooth Reservoir natural areas that the City of Fort Collins and Larimer County have already worked so hard to preserve and protect. I ask Council to make an appropriate zoning decision that retains and protects the natural value of the Hughes property.

Thank you for your consideration,

Doug Finnman
Good morning, please vote YES to delay the second reading on The old Hughes stadium property until your April meeting. This is an important and emotional issue and during this difficult time should be delayed until things return to

Stay healthy,
Ann Conroy

Sent from my iPhone
Hello,

My concern is WHY you guys have to have this meeting so rushed? Why is it that you want to come together during covid19 and make a decision, Fort Collins values that spot so much. Who ever wants to build in that area is ruining natural trails that people have come to love EVERYDAY. Hughes stadium area is MY GO TO SPOT. At 1,000s of others. You all suck and I hope this meeting doesn’t go on during this because it just goes to show y’all are only about money. Not giving one care about the beauty of that area.

FEEL FREE TO PLEASEEEEEEE EMAIL BACK ON WHY YOU WANT TO HAVE A MEETING DURING THIS.
Fort Collins City Council Members:

Switching to virtual City Council Meetings will essentially discourage a large majority of citizens from participating in the future plans of our city.

- There are elderly people who are not computer savvy.
- There are citizens who don’t have computers.
- There are people who can’t afford computers.
- Unfortunately it’s an opportunity for the introduction of corruption.
- It distances citizens from the opportunity to talk face-to-face “live” with our representatives.
- It allows council members to slip through votes on very vital, controversial decisions like Hughes.
- It is basically distancing the citizens from a LIVE DEMOCRACY in action.
- Without a lot of practice and working out the kinks and providing help to the community on how to go about participating via computer, this whole idea will fail in terms of public participation.
- Critical decisions should be put on hold until this whole process can be introduced to the citizens of Fort Collins and people feel comfortable doing it.
- This whole idea is UNDEMOCRATIC!

Please consider holding off on voting for controversial subjects like Hughes and concentrate on “Business-as-usual” items until this Coronavirus issue has subsided. The Hughes property is not going to go away, there are plenty of developers besides Lennar who would be happy to have the opportunity to be a part of the design and future wishes of this city for this property. Any excuse of a RUSH is just not valid. PATHS has been working on compromise for a long time and this decision could invalidate all that we have hoped for.

Sincerely, Lindsay Morgan 80526
To the Fort Collins city council members:

Once again I am stunned at the lengths this council will go to get their way.
I am strongly urging each one of you to uphold your duty as council members to listen to the people of Fort Collins.
I strongly believe you should not vote to change the ordinance regarding not allowing determining quasi judicial matters in remote council meetings.
I say this for a number of reasons.
First, even though you offer remote access to citizens for input, it is an onerous process to utilize and truly not easily accessed. Second, it does not give access to citizens who do not have the technology to access it and thus access is not equitable. Third, the last thing on people's mind at this moment is whether their city council is being honest and earnest in running our city government.
( and frankly should be on yours), On every citizen's mind is the Corona virus. Its impact on every community in the United States is unprecedented in so many personal and professional ways.
I want to believe that this city council isn't taking advantage of this terrible circumstances for their advancement of a preferred agenda. But I can't imagine that this particular ordinance is of paramount importance that it can't wait until life settles down.
So please vote not to change the current ordinance regarding not determining quasi judicial matters in remote council meetings.
Sincerely, Beverly Harris
ORDINANCE NO. 138, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE ZONING MAP OF THE CITY OF FORT COLLINS BY CHANGING
THE ZONING CLASSIFICATION FOR THAT CERTAIN PROPERTY KNOWN
AS THE HUGHES STADIUM REZONING AND APPROVING CORRESPONDING
CHANGES TO THE RESIDENTIAL NEIGHBORHOOD SIGN DISTRICT MAP

WHEREAS, Division 1.3 of the Fort Collins Land Use Code (the “Land Use Code”)
establishes the Zoning Map and Zone Districts of the City; and

WHEREAS, Division 2.9 of the Land Use Code establishes procedures and criteria for
reviewing the rezoning of land; and

WHEREAS, on October 16, 2018, City Council approved Ordinance No. 123, 2018,
annexing the Hughes Stadium Annexation property (the “Property”) consisting of approximately
164.56 acres into the City; and

WHEREAS, on October 16, 2018, City Council approved Ordinance No. 124, 2018, to
place the Property into the Transition (T) zone district upon annexation; and

WHEREAS, on July 16, 2019, City Council adopted Resolution 2019-084 to initiate the
rezoning of the Property and directed City staff to prepare a rezoning application on behalf of the
City and make a recommendation to the Planning and Zoning Board and City Council regarding
the appropriate zoning for the Property, all in accordance with Land Use Code Section 2.9.4; and

WHEREAS, City staff submitted an application for rezoning requesting that the Property
be rezoned as “Low Density Mixed-Use Neighborhood (LMN) on the east half of the property and
Residential Foothills (RF) on the west half of the property, with a condition that residential units
be clustered and 50% of the area be retained in an ‘open’ condition” (the “Proposed Rezoning”); and

WHEREAS, on September 19, 2019, the Planning and Zoning Board on a 4-2 vote
recommended that City Council not adopt the Proposed Rezoning and instead that Council rezone
the Property entirely as Residential Foothills (R-F); and

WHEREAS, City staff is recommending that City Council implement the recommended
condition by requiring that residential development on the Residential Foothills zone district
portion of the Property meet the requirements for Site Design for Residential Cluster Development
set forth in Land Use Code Section 4.3(E)(2); and

WHEREAS, after publishing public notice on Sunday, October 13, 2019, City Council held
a public hearing on November 5, 2019, to consider the rezoning as set forth herein and at that
hearing City staff and members of the public provided information and testimony.
NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That City Council, after considering at the November 5, 2019, hearing the Planning and Zoning Board recommendation, the testimony of the public and City staff, and the information provided for the hearing, hereby finds that the Proposed Rezoning is:

(1) Consistent with the City's Comprehensive Plan;

(2) Is compatible with existing and proposed uses surrounding the Property and is the appropriate zoning for the Property;

(3) The proposed zoning would not result in significantly adverse impacts on the natural environment;

(4) Would result in a logical and orderly development pattern.

Section 3. That City Council hereby rezones the western half of the Property as Residential Foothills (R-F) zone district and the eastern half of the Property as Low Density Mixed-Use Neighborhood (LMN) as follows:

A north to south dividing line (“Dividing Line”) shall be established on the Property with such line running parallel to and 1368.63 feet west of, as measured perpendicularly, the eastern line of the southeast quarter of Section 20, Township 7 North, Range 69 West of the Sixth Principal Meridian, City of Fort Collins, County of Larimer, State of Colorado. The portion of the Property located west of the dividing line shall be designated as Residential Foothills Zone District and the portion of the Property located east of the dividing line shall be designated as Low Density Mixed-Use Neighborhood District (L-M-N).

Section 4. That Council imposes the following condition of approval upon this rezoning pursuant to Land Use Code Section 2.9.4(I):

All residential development occurring on the portion of the Property zoned Residential Foothills (R-F) shall be residential cluster development in compliance with the version of Land Use Code Section 4.3(E)(2), Site Design for Residential Cluster Development, in effect on the effective date of this Ordinance and attached to this Ordinance as Exhibit “A”. However, any Land Use Code section or defined term referenced within Land Use Code Section 4.3(E)(2) shall be to the version of such section or defined term in effect at the time such section or defined term is applied to any development application for any portion of the Property zoned Residential Foothills.
Section 5. That Council finds that the condition of approval imposed in above Section 4 is necessary to accomplish the purposes of the Land Use Code, specifically, Land Use Code Section 1.2.2(A), (C), (D), (I), and (N), and is consistent with City Plan.

Section 6. That Council finds that the rezoning and condition of approval adopted herein are in the best interests of the citizens of Fort Collins.

Section 7. That the Residential Neighborhood Sign District Map adopted pursuant to Section 3.8.7(E)of the Land Use Code be, and the same hereby is, changed and amended by showing that the above-described property is included in the Residential Neighborhood Sign District.

Section 8. The City Manager is hereby authorized and directed to amend said Zoning Map in accordance with this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 5th day of November, A.D. 2019, and to be presented for final passage on the 21st day of April, A.D. 2020.

Mayor

ATTEST:

_____________________________
City Clerk

Passed and adopted on final reading on this 21st day of April, A.D. 2020.

Mayor

ATTEST:

_____________________________
City Clerk
EXHIBIT “A”

Land Use Code Section 4.3(E)(2):

*Site Design for Residential Cluster Development.* Property in the Foothills Residential District may be developed in clusters, subject to approval by the Planning and Zoning Board. In a cluster development, lot sizes may be reduced in order to cluster the dwellings together on a portion of the property, with the remainder of the property permanently preserved as public or private open space. The following standards shall apply to cluster developments in this District:

(a) Only the uses specifically permitted in subsection (B) above shall be allowed.

(b) Minimum lot sizes may be waived by the Planning and Zoning Board, provided that the overall density of the cluster development is not greater than one (1) unit per gross acre.

(c) A cluster development shall set aside at least fifty (50) percent of the total land area of the proposed development as private or public open space that is permanently preserved as open space through dedication of ownership, if acceptable to the City, or placement of an appropriate easement granted to the City or other nonprofit organization acceptable to the City, with such restrictive provisions and future interests as may be necessary to ensure the continuation of the open space use intended. As a condition of approval, the City may also require the property owners to maintain the dedicated open space to city standards through a maintenance agreement.

(d) Building envelopes shall be identified on the cluster development, and the minimum area of lot, minimum width of lot, minimum front yard, minimum rear yard, minimum side yard and maximum building height shall conform to the requirements established in the Residential Low Density District.

(e) The design of the cluster development shall be appropriate for the site, as demonstrated by meeting the following criteria:

1. preservation of significant natural resources, natural areas and features, native vegetation, open lands or agricultural property through maintenance of large, contiguous blocks of land and other techniques.

2. provision of additional amenities such as parks, trails, common areas or access to public recreational areas and open space.

3. minimizing the visual intrusion by dwellings and other structures and blocking of vistas to the foothills and prominent mountain vistas by avoiding building in the center of a meadow or open area.

4. protection of adjacent residential development through landscaping, screening, fencing, buffering or similar measures.
5. the layout of lots on the cluster development is designed to conform to terrain and is located so that grading and filling are kept to a minimum. Natural features such as drainage swales, rock outcroppings and slopes shall be preserved.

6. taking into account the unique micro-climate of the foothills so that building envelopes are selected and individual structures are built for protection from high winds and to function with maximum conservation of energy.

7. if farm animals are intended to be allowed within the area, indicating those portions of the area to be developed that will be reserved for the keeping of farm animals and the mitigation efforts used to buffer these areas from surrounding uses.
AGENDA ITEM SUMMARY
City Council
April 21, 2020

STAFF
Tessa Gregor, FCBikes Program Manager
Claire Havelda, Legal

SUBJECT
Items Relating to Electric Assisted Bicycles on Paved Trails.

EXECUTIVE SUMMARY
This item is coming to City Council as Second Reading of the Ordinances. The one-year pilot program allowing Class 1 and Class 2 e-bikes on paved trails is set to expire on April 30. Subsequent action is needed by City Council to determine future e-bike regulations, based on the pilot program results, prior to the expiration of the pilot program ordinance.

A. Second Reading of Ordinance No. 058, 2020, Amending Chapter 23 of the Code of the City of Fort Collins to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.

B. Second Reading of Ordinance No. 059, 2020, Amending the Fort Collins Traffic Code to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.

These Ordinances, adopted on First Reading on April 7, 2020 by a vote of 6-1 (Nays: Cunniff) update Fort Collins City and Traffic Code to allow Class 1 and Class 2 e-bikes on City-paved trails. In April 2019, Fort Collins City Council approved a one-year pilot program to allow Class 1 and Class 2 e-bikes on paved trails in Fort Collins. This one-year pilot program began May 1, 2019 and will end April 30, 2020. Data and public input were collected during the pilot program, and staff has found no major issues associated with allowing e-bikes on paved trails at this time. Research and the pilot program indicate e-bikes provide mobility, sustainability, and health benefits, and can help achieve Fort Collins' Climate Action and transportation goals.

In conjunction with the recommendation to continue allowing Class 1 and Class 2 e-bikes on paved trails, staff is also recommending strategies to ensure Fort Collins' trail system remains a positive and safe experience for all users as use increases, and to address concerns raised during the pilot program.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS
1. First Reading Agenda Item Summary, April 7, 2020 (w/o attachments) (PDF)
2. Ordinance No. 058, 2020 (DOCX)
3. Ordinance No. 059, 2020 (PDF)
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY
April 7, 2020

STAFF
Tessa Greegor, FCBikes Program Manager
Claire Havelda, Legal

SUBJECT
Items Relating to Electric Assisted Bicycles on Paved Trails.

EXECUTIVE SUMMARY
A. First Reading of Ordinance No. 058, 2020, Amending Chapter 23 of the Code of the City of Fort Collins to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.
B. First Reading of Ordinance No. 059, 2020, Amending the Fort Collins Traffic Code to Allow and Regulate the Use of Electrical Assisted Bicycles on the City’s Paved Trails.

The purpose of this item is to present two ordinances for Council consideration to update Fort Collins City and Traffic Code to allow Class 1 and Class 2 e-bikes on City-paved trails.

In April 2019, Fort Collins City Council approved a one-year pilot program to allow Class 1 and Class 2 e-bikes on paved trails in Fort Collins. This one-year pilot program began May 1, 2019 and will end April 30, 2020. Data and public input were collected during the pilot program, and staff has found no major issues associated with allowing e-bikes on paved trails at this time. Research and the pilot program indicate e-bikes provide mobility, sustainability, and health benefits, and can help achieve Fort Collins’ Climate Action and transportation goals.

In conjunction with the recommendation to continue allowing Class 1 and Class 2 e-bikes on paved trails, staff is also recommending strategies to ensure Fort Collins’ trail system remains a positive and safe experience for all users as use increases, and to address concerns raised during the pilot program.

Key takeaways from the pilot program include:

- The pilot program did not result in any major safety incidents associated with allowing e-bikes on paved trails.
- Public feedback and input from City Boards and Commissions indicated more support for allowing e-bikes on paved trails than opposition, particularly Class 1 e-bikes.
- Bicyclist speed observations showed an average bicycle speed of just under 12 miles per hour (total of 1,157 bikes observed). Only 16 e-bikes were observed during the speed assessments with an average speed of 15.63 mph.
- E-bike use is increasing though it remains a relatively small percentage of users on the trails today. Trail count data from September showed 1.2% of bicyclists using e-bikes.
- Most E-bike owners reported bicycling more and replacing car trips with their e-bike.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on First Reading.

The results of the pilot program and relevant research have informed staff’s recommended adoption of the
Ordinances allowing the use of Class 1 and Class 2 e-bikes on paved trails. City Council may wish to amend the ordinances to only allow Class 1 e-bikes on paved trails based on certain City board recommendations and the differences in public opinions and some staff opinions. A motion to make that revision is provided as Attachment 10, in case that is desired.

E-bikes provide mobility, sustainability, and health benefits, and provide a strategy for achieving Fort Collins’ Climate Action and transportation goals. Further, as the region continues to connect the paved trail network, consistently allowing e-bikes on paved trails across jurisdictions, offers people the option to commute longer distances by bike and increases access to recreation opportunities. Most Colorado jurisdictions including Loveland, Larimer County, and Boulder County, allow e-bikes on paved trails.

In conjunction with staff’s recommended ordinances to allow e-bikes on paved trails, staff is recommending ongoing monitoring of trail utilization, user behavior, and continued education and outreach to address broader concerns related to trail safety and remain proactive in anticipation of increased trail use in the coming years (additional strategies detailed in the subsequent section).

BACKGROUND / DISCUSSION

In August 2017, Colorado passed House Bill 17-1151 concerning the regulation of e-bikes; this law establishes three classes of e-bikes, defines e-bikes as bicycles, and allows the operation of Class 1 and Class 2 e-bikes on bike or pedestrian paths unless local governments prohibit such use (which at the time was the case for Fort Collins).

Following adoption of this state law in 2017, the City’s Bicycle Advisory Committee (BAC) researched the topic of allowing e-bikes on Fort Collins’ paved trail system and ultimately recommended the City pursue a pilot program. Staff from FC Moves, Natural Areas, Parks, and Park Planning & Development developed the framework for this pilot program, which was subsequently presented to nine City Boards, Commissions and Committees for their consideration and action; eight voted in favor of a pilot program to allow e-bikes on paved trails for one year.

In April 2019, Fort Collins City Council adopted Ordinance No. 045, which enacted a one-year exemption from certain restrictions in the City Code to allow Class 1 and Class 2 e-bikes on paved designated trails in Fort Collins. This one-year pilot program began May 1, 2019 and will end April 30, 2020.

Existing E-bike Code and Regulations

Consistent with Colorado Traffic Code, City Traffic Code defines e-bikes as a bicycle with two or three wheels, fully operable pedals, and an electric motor that does not exceed 750 watts. City and Colorado Traffic Code require e-bikes to conform to one of three classifications outlined in Table 1 and to be labeled accordingly. E-bikes and e-bike riders are exempt from motor vehicle registration and license requirements.

Under Colorado law, Class 1 and Class 2 e-bikes are allowed on the same bicycle and pedestrian paths as conventional bikes, unless regulated or restricted by local jurisdictions.

Except as authorized by the 2019 pilot program ordinance, Fort Collins City Code currently prohibits the use of e-bikes while the motor is engaged on a bike or pedestrian path or on a recreational trail unless the user has a temporary or permanent mobility disability. E-bikes are otherwise legal and treated as traditional bicycles under Fort Collins Code.

<table>
<thead>
<tr>
<th>Table 1: Classification of E-bikes (Colorado and Fort Collins Regulations)</th>
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<tbody>
<tr>
<td>Electric Assist Bicycle Definition</td>
</tr>
<tr>
<td>A bicycle with two or three wheels, fully operable pedals, and an electric motor that does not exceed 750 watts.</td>
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<tr>
<td>Class 1</td>
</tr>
<tr>
<td>An electrical assisted bicycle that is equipped with an electric motor that provides assistance while the rider is pedaling up to 20 miles per hour.</td>
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</table>
Class 2
An electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour.

Class 3
An electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight (28) miles per hour. Class 3 e-bikes include age restrictions and require the use of helmets for people under the age of 18.

Other E-Devices

In 2019, Fort Collins also launched a one-year e-scooter share pilot program with the private scooter company Bird. E-scooters and other e-devices (except for Class 1 and Class 2 e-bikes) are not currently allowed on Fort Collins’ recreational trail system and are being managed separately from e-bikes. The timing of the 2017 state law regarding e-bikes and the clear definition of e-bikes as bicycles in local and state statutes prompted staff to approach the e-bike paved trail pilot program independently of other e-devices. As the use of e-scooters and other e-devices increases and these modes become more established, staff will utilize upcoming Plan updates to determine future management strategies and policies for such devices as part of Fort Collins trail system.

Literature Review Key Findings

During the pilot program, the City of Fort Collins joined Boulder County, Larimer County, and the City of Boulder as a funding partner in the completion of a Literature Review to provide a snapshot of relevant research related to e-bikes and how they are being addressed in other jurisdictions. The literature review also assessed broader topics related to recreation conflict and emerging technology. The key findings from the literature review were:

- E-bikes provide increased access to recreation and transportation; older adults are more likely to use e-bikes for recreation and fitness whereas younger adults are more likely to use e-bikes for commuting, utilitarian trips, and to replace car trips.
- The addition of the electric-assist encourages people to take more and longer trips by bike and offers individual health benefits.
- E-bike users indicate feeling safer on an e-bike than a conventional bike given the ability to travel through an intersection quickly or traverse challenging terrain.
- Safety, speed, crowding, and user conflict are common concerns related to bicycles, and even more so for e-bikes. However, e-bike research has shown that people tend to view e-bikes more favorably once they are exposed to or become familiar with e-bikes.
- The literature review found little research to suggest that e-bikes have greater negative impacts on trails or wildlife than regular bikes.
- Many Colorado jurisdictions have acted to allow some or all classes of e-bikes on their trails.

Literature Review available online at: fcgov.com/ebikes

E-Bike Paved Trail Pilot Program Overview

The development, implementation and final recommendations of the e-bike pilot program were done in partnership with multiple City Departments, including FC Moves, Parks, Park Planning and Development, and Natural Areas. Police Services and Traffic Operations were also consulted for data and feedback. Community and regional partners, including local bike shops, Colorado State University, bicycle organizations, and neighboring jurisdictions played a role in the pilot program as well. Students from the Colorado School of Public Health were integral to the implementation of the e-bike pilot program.

The primary pilot program goals were:

- Assess public opinions and perceptions around allowing e-bikes on paved trails
- Collect data to understand impacts to trail user experience and safety
Agenda Item 19

- Measure changes to bicycle utilization on trails
- Increase awareness of proper trail etiquette and trail use laws
- Collect comprehensive data to report back to decision makers in areas of concern

E-Bike Pilot Program Methods

The pilot program included the following evaluation methods:

- **Public surveys and questionnaires:** The pilot program included extensive data collection through surveys and questionnaires. Surveys were administered on the trails, online, and during events. Combining all surveys, over 1,100 responses were received, offering a good indicator of the perceptions and experiences related to allowing e-bikes on Fort Collins paved trails. Trail surveys were conducted on multiple days, during different time periods, and across the trail system to reach as many individuals as possible. Over 650 surveys were completed by people on the trails and the online survey received 382 responses.

- **Bicyclist speed snapshots:** Bicyclist speeds were capturing during the pilot program using hand-held pocket radar units with trained students. Speeds snapshots were captured on 19 different days in April, July, August, September and October. Different locations and time periods were included in the analysis on the following trails: Spring Creek Trail, Poudre Trail, Long View Trail, Mason Trail, and Power Trail. A total of 1,157 bicyclists were included in the speed assessments with only 16 e-bikes observed.

- **Annual trail counts including e-bike observations:** Bicyclist and pedestrian counts were collected at 13 trail locations in September. These counts were used to track the percentage of bicyclists using e-bikes.

- **Observations and feedback from City Rangers:** During the Pilot Program, Staff requested feedback from City Rangers regarding observations and reported conflicts with people utilizing e-bikes.

- **Feedback from City Departments:** Multiple City departments were involved in the pilot program with feedback or data collected from Police Services, FC Moves, Natural Areas, Parks, Park Planning and Development and Traffic Operations.

- **Access Fort Collins and incident reports:** Community members were encouraged to report issues or comments using the City's Access Fort Collins application, email, or report directly to Police Services.

- **Other feedback (community partners, bike shops):** Staff reached out to partners including local bike shops, Colorado State University, and local bicycle organizations, to seek input regarding the pilot program.

- **Literature Review (led by Boulder County with funding provided by the City of Fort Collins):** During the pilot program, the City of Fort Collins joined Boulder County, Larimer County, and the City of Boulder as a funding partner in the completion of a Literature Review to provide a snapshot of relevant research related to e-bikes and how they are being addressed in other jurisdictions.

In addition, the following education and outreach was conducted during the pilot program:

- Educational handouts distributed through retailers and at events
- Temporary signage placed on the trails with information about the pilot program and the courtesy speed limit of 15 mph
- Press release
- Website information
- Social media and email communications
- Trail "pop-up" education events
- E-bike specific outreach at major events including Open Streets, Bike to Work Day, Earth Day, and the Bike Fix-it Bonanza
- E-bike demos
- Distribution of hundreds of bike bells in partnership with Bike Fort Collins to emphasize safe passing

Pilot Program Results (see Attachment 1 for additional information):

**Summary of Survey Feedback**

- **Public Opinions:** Based on more than 1,100 survey responses, the majority of respondents indicated
support for allowing Class 1 e-bikes on paved trails (53% support, 15% oppose). A slightly higher percentage of respondents indicated supporting Class 2 e-bikes on paved trails over opposing them (36% support, 28% oppose), however the level of support was lower in comparison to Class 1 e-bikes.

Comments: The primary reasons people indicated support for e-bikes on paved trails were: provides support for those needing additional assistance, no difference from a regular bike, and supports alternative transportation. The primary reasons people indicated opposing e-bikes on paved trails were concerns over safety and speed, perspectives of e-bikes being a motorized vehicle, and impact to trail experiences.

- **Trail Experience:** Several survey questions were used to assess overall trail experience as well as the impact of e-bikes to users’ trail experience. Overall trail experience was rated very high by trail users. For trail users who observed e-bikes during the day of the trail survey, very few survey respondents rated those encounters as negative. Survey respondents who had experienced e-bikes on the paved trails were asked to indicate how that has impacted their overall experience using the paved trails-between 72% and 86% of respondents rated the impact as Neutral/No Impact to Positive.

- **Perception of Safety:** Trail survey respondents were asked to rate, during daylight hours, how safe they felt (typically) when using Fort Collins paved trails. Very few respondents reported feeling unsafe. 98-99% of respondents reported feeling somewhat or very safe when using Fort Collins paved trails. This is a question that can be asked in the future to determine changes in perception of safety.

- **Crashes:** During the e-bike pilot program, City departments did not receive reports of e-bike crashes on the paved trails. Recognizing trail-related crashes may go unreported, Staff included a question on the trail surveys to understand the prevalence of trail crashes. Of these survey responses, one person (of 427 responses) indicated experiencing an e-bike related crash on the paved trails in the previous 6 months.

- **E-bike related trail conflicts:** Out of 235 trail survey responses, three respondents indicated experiencing conflict with an e-bike user. 90% of respondents reported not experiencing conflict on the trail that day. In this context “conflict” was described as “trail users interfering with one another’s goals on the trail, causing unpleasant experiences”.

**Summary of E-bike Use**

The use of e-bikes has increased in Fort Collins, but still represents a small percentage of bicycle users. Trail count data from September showed 1.2% of bicyclists using e-bikes. Based on local survey results of e-bike owners, the majority are 50+ years of age, and indicate bicycling more because of their e-bike and using their e-bike to replace car trips. Local bike shops reported increased e-bike sales between 2018 and 2019 and indicated selling almost entirely Class 1 e-bikes.

**Summary of Bicycle Speed Snapshots**

Bicyclist speeds were capturing prior to and during the pilot program using hand-held pocket radar units with trained students. Speeds snapshots were captured on 19 different days in April, July, August, September and October. Different locations and time periods were included in the analysis on the following trails: Spring Creek Trail, Poudre Trail, Long View Trail, Mason Trail, and Power Trail. A total of 1,157 bicyclists were included in the speed assessments with only 16 e-bikes observed.

The average speed for all bikes was just under 12 miles per hour (11.93 mph), with an observed range of 1 - 24 miles per hour. For the 16 e-bikes observed, the average speed was 15.62 miles per hour, with an observed range of 10 - 23 miles per hour. The low sample size for e-bike observations suggests a need to continue monitoring speeds while also conducting education on safe trail speeds for all bicyclists.

**Trail Ranger Observations**

During the pilot program, Parks and Natural Areas Rangers were asked to provide reports of e-bike observations and safety incidents involving e-bikes. While Rangers did observe e-bikes on the paved trails, no e-bike safety incidents were reported by the Rangers on the paved trails.
Access Fort Collins Reports:

During the pilot program, approximately 25 emails or Access Fort Collins reports were submitted with some indicating support for e-bikes and some expressing concerns or negative experiences with e-bikes on the trails. Some of the comments received indicated experiences with illegal devices on the trails (e.g., gas-powered bikes), which were not included in the pilot program.

The City’s Safe Routes to School Program Coordinator reported an interaction with an e-bike user riding at high speed and behaving inconsiderately near a group of youth (it’s unclear if this was a legal e-bike allowed on the paved trails). These reports indicate additional education and signage are warranted to inform trail users of what is legally allowed on the trails, and to emphasize safe trail behaviors.

Feedback from Police Services

Fort Collins Police Services was asked to provide feedback regarding their experience during the pilot program and if they had received reports regarding issues with e-bikes on paved trails. Police Services indicated that allowing e-bikes on paved trails has not been an issue from their experience and they support continuing to allow them.

Staff and Boardmember Concerns

While the staff recommendation and recommendation from most City boards consulted is to proceed with allowing the use of e-bikes on paved trails, the following broader concerns were raised by some staff members and boardmembers during the review process:

- **Slippery slope:** If e-bikes are allowed, this may result in a public perception that other e-devices are or should be allowed.
- **Enforcement:** If the recommendation to allow e-bikes on paved trails comes with an expectation for increased trail enforcement, the ability for staff to meet this expectation is of concern given existing resources and other safety priorities.
- **Future impacts to trail system:** The use of e-bikes is currently low in Fort Collins. Concerns were raised regarding the current design and capacity of the trail system, and how the system will accommodate increased e-bike use in the future.
- **Trail safety and experience:** Concerns were raised around the potential future impact to trail user experience and overall safety if the use of e-bikes on paved trails continues to increase.
- **Impacts to youth and vulnerable populations:** While staff and partners did not find research to suggest increased e-bike use would have a negative impact on youth and other vulnerable populations, this was raised a concern and may warrant additional monitoring and research.

In addition to the public feedback received during the pilot program, the input from staff and board members has informed staff’s additional recommendations for continued trail user education, ongoing monitoring, and addressing broader trail use, design, and management questions through upcoming Plan updates (additional details below).

Pilot Program Conclusions and Recommendations

The information collected during the pilot program and relevant research informed staff’s final recommendation to allow Class 1 and Class 2 e-bikes on paved trails following the completion of the pilot program. This recommendation in conjunction with the below strategies was developed in partnership with multiple City Departments, including FC Moves, Parks, Park Planning and Development, Natural Areas, and Police Services. Feedback and recommendations from City Boards and Commissions, as well as community and regional partners, also played a role in the final recommendations.

*Recommended strategies to address concerns and maintain a positive user experience for all trail users*
• **Conduct trail user education to promote safe and legal use of the trail system.** Bicycle user speed and trail safety remain concerns among trail users based on input received during the pilot program. Fort Collins has a courtesy trail speed limit of 15 mph; while this is not an enforceable speed limit, it is an important education tool. To continue to promote safe trail use and foster positive trail experiences, staff recommends ongoing trail user education in partnership with FC Moves, Parks, Natural Areas, Police Services, and community organizations to emphasize this courtesy speed limit, trail laws, and proper etiquette.

• **Conduct ongoing monitoring of trail utilization and experience,** including the use of e-bikes, and safety behaviors. With e-bikes representing a small percentage of total bicycle use on trails, staff proposes to continue annual trail assessments to address safety issues if they arise. In addition, staff will use City surveys (e.g., the Annual Community Survey) to evaluate changes in overall satisfaction with the trail system.

• **Trail signage:** With the proposed changes to e-bike regulations, staff plans to install permanent signage at key trail locations (e.g., at existing kiosks and trail access points) to notify the public which devices are allowed and where along with safety information. This signage may be installed as part of a larger trail signage effort planned by Park Planning & Development.

• **Trail enforcement:** A common comment regarding safe and legal trail use is for increased enforcement. The City currently employs 8 Natural Area (patrol) Rangers and 3 Parks (patrol) Rangers who cooperatively patrol the City’s the trail system. While Rangers are able to enforce certain violations on the trails, including reckless riding, they are not fully commissioned officers and therefore do not have the ability to pursue or “pullover” individuals. Further, staff believes enhanced education can address the majority of concerns raised by the public with regard to the behaviors experienced on trails.

• **Staff recommends utilizing upcoming Plan updates** (e.g., Parks Master Plan and Trails Master Plan) as the platform to engage in broader conversations around future trail system vision, the use of other e-devices, and trail management and design strategies to accommodate increased use.

**CITY FINANCIAL IMPACTS**

The implementation of the recommended code changes will require minimal financial resources. The installation of permanent trail signage and conducting additional trail user education is expected to cost less than $5,000. The implementation of the education and ongoing data collection will be supported through volunteers and partnerships with other organizations and will continue to be integrated into existing education and outreach programs. Additional resources may be necessary if other recommendations are identified beyond what is currently proposed, such as increased enforcement.

**BOARD / COMMISSION RECOMMENDATION**

Staff presented the results of the pilot program to the following City Boards, Commissions and Committees; to date, seven have voted in favor of allowing both Class 1 and Class 2 e-bikes on paved trails, or just Class 1 e-bikes.

• Senior Advisory Board (January 8 - subsequent action, voted in favor of allowing Class 1 e-bikes on paved trails in conjunction with a requirement that e-bike users have insurance)
• Land Conservation & Stewardship Board (January 8 - subsequent action, voted in favor of allowing Class 1 e-bikes on paved trails)
• Commission on Disability (January 9 - no action taken)
• Transportation Board (January 15 - voted in favor of allowing Class 1 and Class 2 e-bikes on paved trails)
• Parks & Recreation Board (January 23 - voted in favor of allowing Class 1 and Class 2 e-bikes on paved trails, and recommending ongoing monitoring)
• Bicycle Advisory Committee (January 27 - voted in favor of allowing Class 1 and Class 2 e-bikes on paved trails)
• Youth Advisory Board (February 5 - voted in favor of allowing Class 1 and Class 2 e-bikes on paved trails, and supported allowing Class 3 e-bikes if they can be programmed to a 20 mph top speed)
• Natural Resources Advisory Board (February 19 - voted in favor of allowing Class 1 e-bikes on paved trails)
• Air Quality Advisory Board (March 16 - canceled until further notice)

**PUBLIC OUTREACH**
In addition to the boards and commissions outreach conducted as part of this process, the pilot program included extensive public outreach and engagement, including:

- Trail surveys, online survey, and event questionnaires
- Educational handouts distributed through retailers and at events
- Temporary signage placed on the trails with information about the pilot program and the courtesy speed limit of 15 mph
- Press release
- Website information
- Social media and email communications
- Trail “pop-up” education events
- E-bike specific outreach at major events including Open Streets, Bike to Work Day, Earth Day, and the Bike Fix-it Bonanza
- E-bike demos
- Distribution of hundreds of bike bells in partnership with Bike Fort Collins to emphasize safe passing

Following the completion of the pilot program, staff proposes ongoing public education and outreach to maintain safe and legal trail use and promote a culture of respect among trail users.

**ATTACHMENTS**

1. E-Bike Paved Trail Pilot Program Report 2019-2020 (draft) (PDF)
2. Senior Advisory Board Recommendation and Minutes (PDF)
3. Land Conservation and Stewardship Board Recommendation and Minutes (PDF)
4. Commission on Disability Minutes, January 9, 2020 (PDF)
5. Transportation Board Minutes, January 15, 2020 (PDF)
6. Parks and Recreation Board Minutes, January 23, 2020 (PDF)
7. Bicycle Advisory Committee Minutes, January 27, 2020 (draft) (PDF)
8. Youth Advisory Board Recommendation (PDF)
9. Natural Resources Advisory Board Minutes, February 19, 2020 (draft) (PDF)
10. Proposed Motions to amend Ordinances to Class One Electrical Assisted Bicycles Only (PDF)
11. Powerpoint presentation (PDF)
ORDINANCE NO. 058, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 23 OF THE CODE OF THE CITY OF FORT COLLINS
TO ALLOW AND REGULATE THE USE OF ELECTRICAL ASSISTED
BICYCLES ON THE CITY’S PAVED TRAILS

WHEREAS, on April 16, 2019, the City Council approved Ordinance No. 045, 2019,
implementing a pilot program to allow electrical assisted bicycles, as that term is defined in the
Fort Collins Traffic Code, to operate on paved trails in natural areas and recreation areas within
the City for a one-year trial period; and

WHEREAS, pursuant to extensive staff outreach, there is public support for allowing the
ongoing use of certain electrical assisted bicycles on City trails; and

WHEREAS, the City needs to balance the use of electrical assisted bicycles on trails with
current use of such trails by bicycles and pedestrians, as well as maintain the City’s interest in
conservation and stewardship of its natural areas and recreation spaces; and

WHEREAS, City staff will continue to conduct trail user education to promote safe and
legal use of the trail by electrical assisted bicycle users; and

WHEREAS, in order to balance these interests, City staff is recommending amending Chapter
23 of the City Code to expressly permit use of Class 1 and Class 2 electrical assisted bicycles on
paved trails in City natural areas and recreation areas; and

WHEREAS, City staff will continue to monitor the use and impact of electrical assisted
bicycles on trails within the City; and

WHEREAS, the City Council finds that amending the City Code as described herein is in
the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT
COLLINS as follows:

Section 1. That the City Council hereby makes and adopts
the determinations and
findings contained in the recitals set forth above.

Section 2. That Section 23-193(d)(18) of the Code of the City of Fort Collins is hereby
amended to read as follows:

Sec. 23-193. Prohibited acts; permits.

... (d) Except as authorized by a permit obtained for such use from the Service Area, it
shall be unlawful to:
(18) Operate or park a motor vehicle or other motorized means of conveyance anywhere in a natural area other than on established roadways and in designated parking areas, with the following exceptions:

a. Class 1 and Class 2 electrical assisted bicycles, as defined in Section 2002(12) of the Fort Collins Traffic Code, are allowed within natural areas, on paved, designated trails only, unless prohibited by signs;

b. a motorized wheelchair may be used by any person with a temporary or permanent mobility disability anywhere in a natural area that public access is allowed; and

c. an other power-driven mobility device may be used in a natural area by any person with a temporary or permanent mobility disability, in accordance with City regulations regarding such use of other power-driven mobility devices.

Section 3. That Section 23-203(a)(1) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 23-203. - Prohibited acts; permits.

(a) It shall be unlawful to:

(1) Operate or park a motor vehicle or other motorized means of conveyance anywhere in a recreation area other than on established roadways and in designated parking areas, with the following exceptions:

a. Class 1 and Class 2 electrical assisted bicycles, as defined in Section 2002(12) of the Fort Collins Traffic Code, are allowed within recreation areas, on paved, designated trails only, unless prohibited by signs;

b. a motorized wheelchair may be used by any person with a temporary or permanent mobility disability anywhere in a recreation area that public access is allowed; and

c. an other power-driven mobility device may be used in a recreation area by any person with a temporary or permanent mobility disability, in accordance with City regulations regarding such use of other power-driven mobility devices.
Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk

Passed and adopted on final reading on this 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

__________________________________
City Clerk
ORDINANCE NO. 059, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE FORT COLLINS TRAFFIC CODE TO ALLOW AND REGULATE THE USE OF ELECTRICAL ASSISTED BICYCLES ON THE CITY’S PAVED TRAILS

WHEREAS, on April 16, 2019, the City Council approved Ordinance No. 045, 2019, implementing a pilot program to allow electrical assisted bicycles, as that term is defined in the Fort Collins Traffic Code, to operate on paved trails in natural areas and recreation areas within the City for a one-year trial period; and

WHEREAS, pursuant to extensive staff outreach, there is public support for allowing the ongoing use of certain electrical assisted bicycles on City trails; and

WHEREAS, the City needs to balance the use of electrical assisted bicycles on trails with current use of such trails by bicycles and pedestrians, as well as maintain the City’s interest in conservation and stewardship of its natural areas and recreation spaces; and

WHEREAS, City staff will continue to conduct trail user education to promote safe and legal use of the trail by electrical assisted bicycle users; and

WHEREAS, in order to balance these interests, City staff is recommending the following changes to the Fort Collins Traffic Code be made to allow Class 1 and Class 2 electrical assisted bicycles on paved trails within the City:

• Allow for the prohibition of electrical assisted bicycles by the City Engineer or the Colorado Department of Transportation, where trails have been established on the right-of-way or parallel to and within one-fourth (1/4) mile of the right-of-way of heavily traveled streets and highways; and

• Permit Class 1 and Class 2 electrical assisted bicycles on all paved bike or pedestrian paths and paved recreational trails within the City, except where prohibited by the City Code or posted signs; and

WHEREAS, City staff will continue to monitor the use and impact of electrical assisted bicycles on trails within the City; and

WHEREAS, the City Council finds that amending the Fort Collins Traffic Code as described herein is in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.
Section 2. That Section 2101(2) of the Fort Collins Traffic Code is hereby amended to read as follows:

2101. - General provisions.

(2) All persons are prohibited from riding Class 3 electrical assisted bicycles or an electric scooter, on a bike or pedestrian path or on a recreational trail unless otherwise authorized by the City Code.

Section 3. That Section 2106(3) of the Fort Collins Traffic Code is hereby amended to read as follows:

2106. - Sidewalks and trails.

(3) Riders of Class 1 and Class 2 electrical assisted bicycles may use paved bike or pedestrian paths and paved recreational trails except where prohibited by the City Code or posted signs. The rider of Class 3 electrical assisted bicycle shall not use the electrical motor on a bike or pedestrian path or on a recreational trail unless otherwise authorized by the City Code.

Section 4. That Part 20 Section 2110(3) of the Fort Collins Traffic Code is hereby amended to read as follows:

2110. - Regulatory.

(3) Where suitable bike paths, horseback trails or other trails have been established on the right-of-way or parallel to and within one-fourth (¼) mile of the right-of-way of heavily traveled streets and highways, the Colorado Department of Transportation may, subject to the provisions of Section 43-2-135, C.R.S., by resolution or order, and the City Traffic Engineer may, where suitable bike paths, horseback trails or other trails have been established on the right-of-way or parallel to it within four hundred fifty (450) feet of the right-of-way of heavily traveled streets, by ordinance, determine and designate, upon the basis of an engineering and traffic investigation, those heavily traveled streets and highways upon which shall be prohibited any bicycle, electrical assisted bicycle, electric scooter, animal rider, animal-drawn conveyance or other class or kind of nonmotorized traffic which is found to be incompatible with the normal and safe movement of traffic, and, upon such a determination, the Colorado Department of Transportation or the City shall erect appropriate official signs giving notice thereof; except that with respect to controlled access highways, the provisions of Section 42-4-1010(3), C.R.S., shall apply. When such official signs are so erected, no person shall violate any of the instructions contained thereon.
Introduced, considered favorably on first reading, and ordered published this 7th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

_______________________________
Mayor

ATTEST:

_______________________________
City Clerk

EXECUTIVE SUMMARY

This Ordinance, adopted on First Reading on April 14, 2020, by a vote of 6-1 (nays: Pignataro) authorizes certain types of remote meetings in light of the declared local emergency. The Ordinance will allow remotely conducted City Council meetings and certain quasi-judicial hearings by Council, City boards and commissions and administrative hearing officers. The types of quasi-judicial items that can be considered remotely are limited and exclude zoning decisions, appeals and additions of permitted use. The Ordinance also authorizes remote neighborhood meetings in the Development Review Process. Finally, the Ordinance also permits remote participation by boards and commissions in order to complete essential City business.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, april 14, 2020 (w/o attachments) (PDF)
AGENDA ITEM SUMMARY
City Council

AGENDA ITEM SUMMARY                   April 14, 2020

STAFF
Rebecca Everette, Development Review Manager
Tom Leeson, Director, Comm Dev & Neighborhood Svrs
Carrie Daggett, City Attorney

SUBJECT
Items Relating to Remote Participation in Certain Meetings.

EXECUTIVE SUMMARY

Or


The purpose of either the Emergency Ordinance or Ordinance No. 061, is to authorize certain types of remote meetings in light of the declared local emergency. As published, both Ordinances allow remotely conducted City Council meetings and certain quasi-judicial hearings by Council, City boards and commissions and administrative hearing officers. The types of quasi-judicial items that can be considered remotely are limited and exclude zoning decisions, appeals and additions of permitted use. The Ordinances also authorize remote neighborhood meetings in the Development Review Process. Finally, the Ordinance also permits remote participation by boards and commissions in order to complete essential City business.

To authorize these remote meetings and hearings, Council may choose to adopt the Emergency Ordinance, which goes into effect upon adoption, or alternatively may choose to adopt Ordinance No. 061 on First Reading, which would then be presented for consideration on Second Reading at the next Council meeting and if adopted, would be effective in May.

Attachments to the Agenda Item Summary show the revisions needed to: (1) eliminate the authority for any quasi-judicial proceedings or (2) eliminate the authority for any quasi-judicial proceedings or any neighborhood meetings.

STAFF RECOMMENDATION
Staff recommends adoption of the Ordinance.

BACKGROUND / DISCUSSION

Council adopted Emergency Ordinance 054, 2020 on March 20, 2020, permitting Council to conduct business remotely. However, Ordinance No. 054, 2020 did not authorize remote quasi-judicial hearings or neighborhood meetings required under the Land Use Code. This Ordinance is meant to authorize certain remote quasi-judicial hearings and neighborhood meetings, in addition to other City Council meetings, and therefore amends and supersedes Ordinance No. 54, 2020. This authority is conditioned upon stated criteria to protect due process and other legal rights.

In addition, this Ordinance modifies the originally adopted language about remote Council meetings. Instead of saying the Clerk must only open up the electronic participation no more than fifteen minutes before the meeting, it now says (for Council and Board meetings) that the electronic means of participation must be opened up no more than forty-five minutes and no less than fifteen minutes before the start of the meeting.

Finally, the Ordinance also provides for the use of remote participation by boards and commissions in order to complete essential City business, using a procedure similar to that laid out for City Council meetings. This is intended to allow boards with time-sensitive and critical work, such as the CDBG Commission or other board involved in the process of funding community programs and services, to complete that work.

**BASIS FOR EMERGENCY ORDINANCE**

This matter is being brought forward for consideration in a remote City Council meeting because it is critical to address how the many pending and anticipated quasi-judicial decisions or other decisions will be managed during the current local emergency.

Questions have been raised about whether an emergency ordinance is the appropriate mechanism for enacting this change. Article XIII of the Charter defines “Emergency ordinance” as an ordinance “immediately necessary, on account of an emergency, to preserve the public property, health, peace, or safety” and an “emergency” is defined as “an existing condition actually arising from unforeseen contingencies which immediately endangers public property, health, peace, or safety”. In case Councilmembers do not agree this standard is met, a standard ordinance, Ordinance No. 061, is also provided for Council consideration on First Reading. Ordinance No. 061 would require adoption on Second Reading and would not go into effect until 10 days after adoption (May 1 if adopted on Second Reading on April 21).

**QUASI-JUDICIAL PROCEEDINGS AND NEIGHBORHOOD MEETINGS AS ESSENTIAL CITY BUSINESS**

City Council and various appointed boards and commissions conduct essential government functions on a weekly and monthly basis. For several boards and commissions, their primary responsibility is to make decisions or recommendations on quasi-judicial items that support health, safety and welfare, including the economic wellbeing of the Fort Collins community. This work directly supports Council-adopted priorities and strategic outcomes related to Neighborhood Livability and Social Health, Economic Health, and other outcome areas.

The Planning and Zoning Board, Landmark Preservation Commission, Zoning Board of Appeals, and Building Review Board meet monthly to approve, deny and make recommendations on land use and development projects, historic landmark designation and design review, variances, contractor licensing, and other topics of critical importance to the community. In addition, Administrative Hearings are required for many development projects; the decision maker for these hearings is a third-party land use attorney serving as a hearing officer. The Land Use Code also requires neighborhood meetings as an initial step before a development application can be filed for many projects.

Construction activity has been deemed an essential service under the current State of Colorado and Larimer County stay-at-home orders. Allowing certain quasi-judicial hearings and neighborhood meetings to continue remotely during the current state of emergency will mitigate long-term economic impacts to the community, maintain predictability for development projects, and ensure that funding and construction timelines can be met for critical land uses, including the development of affordable housing, child care, and small business projects.
As proposed with this ordinance, remote quasi-judicial hearings would be limited to projects that comply with the list of permitted uses under the existing zoning designation for a property. Items that propose a new zoning designation (initial zoning or rezoning) or items that seek to amend the list of permitted uses for a property (additions of permitted use) would require an in-person hearing and could not be heard remotely.

**PROPOSED EMERGENCY ORDINANCE: ALLOW CERTAIN REMOTE QUASI-JUDICIAL PROCEEDINGS, NEIGHBORHOOD MEETINGS, AND ESSENTIAL BOARD AND COMMISSION MEETINGS**

The Ordinance prepared for Council consideration would allow only certain quasi-judicial hearings, neighborhood meetings, and essential board and commission activities to proceed remotely.

**Quasi-Judicial Hearings**

The quasi-judicial proceedings that could occur remotely include land use and development decisions, consideration of variance requests, and landmark designations - excluding specific proceedings described below.

Quasi-judicial decisions that have broader or more significant implications for neighborhoods and/or individual property owners would be excluded. This limitation would maintain predictability for community members with regard to the type and intensity of development that might occur on a property. The following proceedings could not be conducted remotely:

- Appeals of decisions of all types (includes appeals to both the City Council and Planning and Zoning Board)
- Initial zoning and rezoning decisions
- Additions of Permitted Use (APUs)

Quasi-judicial decisions for development projects that generally conform to existing zoning could be considered remotely. This includes projects that comply with the permitted use list within the existing zone district for a subject property. This would maintain a predictable process and schedule for projects that generally match the community expectations set by City Plan and the Land Use Code.

This emergency ordinance would allow for consideration of both modifications of standards (LUC Division 2.8) and variances (LUC Division 2.10) at remote hearings. Modifications of standards and variances are often critical to the feasibility of infill and redevelopment projects, which have been prioritized in both City Plan and the Strategic Plan. Because the Land Use Code requires specific criteria to be met and findings to be made for both modification of standards and variance requests, staff finds that there is sufficient predictability in the process to allow for remote hearings of these items. The request must be found to not be detrimental to the public good and meet specific review criteria that justify the granting of the modification or variance.

Staff would ensure that all standard procedures could be replicated within a remote platform. Staff would:

1. Ensure the meetings can be tightly moderated to ensure all rules and procedures are followed, and to ensure due process for all parties involved
2. Provide multiple options for public participation, including both phone and web participation, to ensure full and equal access to the hearings
3. Provide all materials online in advance of the hearing, including all staff and applicant presentation materials
4. Ensure adequate technical assistance is available to all participants, and that there are backup plans in place in case of technological failure
5. Ensure fair notice and adequate training is provided to all board members, staff, applicants, and interested members of the public

A test hearing would be required for any boards that intend to conduct quasi-judicial hearings remotely, to ensure that all board members can effectively participate in the meetings. A public training and test session would also be required to allow interested members of the public to test the technology and ask questions of staff in advance of any quasi-judicial hearings.
Neighborhood Meetings

Neighborhood meetings are required for various development project types, and particularly for any project that will be presented to the Planning and Zoning Board for consideration. Neighborhood meetings are required during the conceptual planning stage for development projects so that neighborhoods may give input on the proposal before the applicant expends time and effort to submit a formal development application to the City.

The purpose of these neighborhood meetings, as described in the Land Use Code, is to:

- Facilitate active community participation and dialogue early in the development review process
- Present development applications to residents of area neighborhoods and for the residents to identify, list and discuss issues related to the development proposal
- Encourage residents to work jointly with staff and the applicant to seek solutions to issues that have been identified

Given the breadth of technology available to encourage virtual public engagement, neighborhood meetings can be effective using remote techniques. The existing tools available to City staff, including the OurCity platform, WebEx, Microsoft Teams, and town hall technology, which can be used in concert to provide a fully accessible meeting experience for residents. A neighborhood meeting is intended to be the starting point in a longer conversation, and staff continues to engage with community members via phone, email, small group meetings, and OurCity pages long after the initial neighborhood meeting has occurred.

Utilizing remote tools and technology for neighborhood meetings presents an additional opportunity for the City to reimagine how we engage with community members around development projects, potentially resulting in better access to and representation in the process over the long term. Prior to the current state of emergency, staff had already been exploring opportunities to increase participation in the development review process using online tools, so there is the potential for long-term implementation of any changes that are well-received by the community.

Board and Commission Meetings

In addition to quasi-judicial hearings and neighborhood meetings, there are boards and commissions with other essential functions that may need to continue during the current state of emergency. For legislative items and other urgent board and commission items, a determination that the item is considered essential business, as well as the basis of such determination, should be included in the materials for each item to be considered.

ORDINANCE VERSIONS

Two Ordinances are presented Council’s consideration; Council should adopt only one of these two:

Item A, Emergency Ordinance No. 060, 2020, is an emergency ordinance that authorizes:

- City Council meetings using remote technologies for pressing matters requiring prompt action;
- City Council, City boards and commissions, and administrative hearing officers to hold quasi-judicial hearings using remote technology, excluding the following types of quasi-judicial matters:
  - appeals of decisions of all types (includes appeals to both the City Council and Planning and Zoning Board),
  - initial zoning and rezoning, and
  - additions of permitted use applications (APUs) as described above.
- Remote neighborhood meetings
- Essential meetings of City boards and commissions.
Item B, Ordinance No. 061, 2020, is substantively the same as the Emergency Ordinance, but is First Reading of a non-emergency ordinance. If adopted, this Ordinance would be considered on Second Reading on April 21 and if adopted on Second Reading, would go into effect on May 1.

Council may wish to modify the Ordinance through a motion that would revise either Ordinance No. 060 or Ordinance No. 061, and two alternate versions Councilmembers have expressed some interest in are attached to this Agenda Item Summary:

Alternate 1 – Allow Only Essential Board and Commission Meetings and Neighborhood Meetings to Occur Remotely (Attachment 2)

An ordinance version showing the changes required to remove the ability to conduct quasi-judicial hearings remotely, while allowing essential board and commission meetings and neighborhood meetings to occur remotely, is provided as Attachment 2 to this Agenda Item Summary.

Alternate 2 – Allow Only Essential Board and Commission Meetings to Occur Remotely (Attachment 3)

An ordinance version showing the changes required to remove the ability to conduct quasi-judicial hearings and also removing the ability to conduct neighborhood meetings remotely while still allowing essential board and commission meetings to occur remotely, is provided as Attachment 3 to this Agenda Item Summary.

The chart below demonstrates the types of remote meetings covered by the versions presented:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Emergency Ordinance No. 060</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>B. Ordinance No. 060</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>C. Remote Meeting Minus Quasi-Judicial</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>If revisions applied to Emergency No. 060</td>
<td>If revisions applied to No. 061</td>
</tr>
<tr>
<td>D. Remote Meeting Minus Quasi-Judicial &amp; Neighborhood</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>If revisions applied to Emergency No. 060</td>
<td>If revisions applied to No. 061</td>
</tr>
</tbody>
</table>

UPCOMING HEARINGS AND NEIGHBORHOOD MEETINGS

Pending quasi-judicial hearings that have been scheduled for March, April, May or June and currently at risk of delay include:

<table>
<thead>
<tr>
<th>Meeting Type</th>
<th>Pending Projects/Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Council Hearings</td>
<td>• 3 rezoning decisions related to properties within City limits</td>
</tr>
<tr>
<td></td>
<td>• 2 initial zoning decisions related to recent annexations (second reading)</td>
</tr>
<tr>
<td></td>
<td>• 5 landmark designation decisions (voluntary)</td>
</tr>
<tr>
<td>Planning and Zoning Board Hearings</td>
<td>• 1 City of Fort Collins neighborhood park</td>
</tr>
<tr>
<td></td>
<td>• 1 child care center</td>
</tr>
<tr>
<td></td>
<td>• 162 multi-family dwelling units (2 projects)</td>
</tr>
</tbody>
</table>
Agenda Item 1

- 2 duplexes (4 dwelling units)
- 2 industrial buildings
- 1 enclosed mini-storage building
- 1 new parking lot with drive-thru ATM for a bank (Addition of Permitted Use)
- 1 convenience store with fuel sales
- 1 community solar project
- 2 appeals of Minor Amendment decisions
- 2 recommendations to City Council related to rezoning decisions

<table>
<thead>
<tr>
<th>Development Review Administrative Hearings (Hearing Officer)</th>
<th>1 hotel (150 rooms)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 wireless telecommunication facility (cell tower)</td>
</tr>
<tr>
<td></td>
<td>1 accessory dwelling unit (carriage house)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zoning Board of Appeals</th>
<th>2 sign variances</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 setback encroachment variance</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Landmark Preservation Commission</th>
<th>1 design review/recommendation for a development project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5 recommendations to City Council on landmark designations (voluntary)</td>
</tr>
</tbody>
</table>

| Building Review Board | 1 decision related to a suspended contractor license |

In addition to public hearings, neighborhood meetings are required prior to the formal submittal of an application for many development projects. Pending neighborhood meetings that are currently at risk of delay include:

<table>
<thead>
<tr>
<th>Meeting Type</th>
<th>Pending Projects/Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighborhood Meetings (Development Review)</td>
<td>2 affordable housing projects</td>
</tr>
<tr>
<td></td>
<td>Senior housing facility (36 memory care units, 63 assisted/independent living units)</td>
</tr>
<tr>
<td></td>
<td>New restaurant</td>
</tr>
<tr>
<td></td>
<td>New manufactured housing community</td>
</tr>
<tr>
<td></td>
<td>Conversion of existing industrial building to a place of worship</td>
</tr>
<tr>
<td></td>
<td>New mixed residential community</td>
</tr>
</tbody>
</table>

CITY FINANCIAL IMPACTS

Allowing certain meetings to be conducted remotely would ensure predictability for development projects and other essential City business. This would reduce the potential for adverse financial impacts to the City in the form of lost revenue, delayed or lost economic activity in the community, and lost community funding in the form of Community Development Block Grant (CDBG) funding.

Holding meetings remotely would have a negligible impact to City finances, as some costs (e.g., meals) would be replaced by others (e.g., subscriptions to remote meeting platforms).

ATTACHMENTS

1. Comparision of April 14 version of Emergency Ordinance No. 60, 2020 to April 7 version (PDF)
2. Revisions to show removal of all remote quasi-judicial hearings (PDF)
3. Revisions to remove all remote quasi-judicial hearings and remote neighborhood meetings (PDF)
ORDINANCE NO. 061, 2020
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING AND SUPERSEeding EMERGENCY ORDINANCE NO. 054, 2020
ENACTING TEMPORARY PROCEDURES
FOR REMOTE PARTICIPATION IN CERTAIN MEETINGS

WHEREAS, the City of Fort Collins is threatened with serious injury and damage, consisting of widespread human and economic impact caused by the Novel Coronavirus 2019 (COVID-19); and

WHEREAS, the City and the Larimer County Department of Public Health and Environment, state officials, Colorado State University and the Poudre School District are cooperatively working to limit community spread and slow the transmission of COVID-19; and

WHEREAS, due to the increasing incidence of COVID-19 in the general population, the World Health Organization designated the spread of COVID-19 as a worldwide pandemic; and

WHEREAS, on March 10, 2020, Governor Polis issued a Declaration of a Disaster Emergency for the State of Colorado and on March 13, 2020, the President of the United States declared a National Emergency; and

WHEREAS, on March 13, 2020, in order to undertake emergency measures to protect the life, health, safety and property of the citizens of the City and persons conducting business therein, and in order to attempt to minimize the loss of human life and the preservation of property, the City Manager, as the Director of the City’s Office of Emergency Management, proclaimed a “local emergency” in accordance with Section 2-671(a)(1) of the City Code and activated the Emergency Operations Plan established pursuant to Section 2-673 of the City Code; and

WHEREAS, the City Council has, with its adoption of Resolution 2020-030, extended the City Manager’s proclamation of local emergency; and

WHEREAS, in light of the potential for Councilmembers to be isolated and unable to physically meet together for a Council meeting in order to conduct Council business, Council adopted Emergency Ordinance No. 054, 2020 (Emergency Ordinance 054), on March 20, 2020, permitting Council to conduct business remotely; and

WHEREAS, Emergency Ordinance No. 054 did not authorize any remote quasi-judicial hearings or neighborhood meetings required under the City’s Land Use Code, and this Ordinance is meant to authorize certain remote quasi-judicial hearings and neighborhood meetings and essential board meetings, in addition to other City Council meetings, and therefore supersedes and replaces in all respects Emergency Ordinance No. 54; and

WHEREAS, on March 25, 2020, the Governor of the State of Colorado issued Executive Order D 2020 017 (Governor’s Stay-at-Home Order) and the Colorado Department of Public Health & Environment (CDPHE) issued Amended Public Health Order 20-24 (CDPHE Public
Health Order), both of which ordered citizens of the State to stay at home, leave home only for identified necessary activities, and comply with physical distancing requirements, sometimes referred to as “social distancing”; and

WHEREAS, the prevention and management of exposure to COVID-19 and mitigation of related impacts of all kinds continue to require emergency action by the City and continued physical distancing in order to reduce its transmission, based on the scientific evidence described in the Governor’s Stay-at-Home Order and the CDPHE Public Health Order; and

WHEREAS, due to the continued critical need to limit interaction by staying at home, maintain physical distance from others, slow the transmission of COVID-19 and protect the health, safety and welfare of the people of Fort Collins, the City is currently unable to hold traditional meetings or quasi-judicial hearings in accordance with the provisions of its City Code and Land Use Code; and

WHEREAS, in order to continue essential government activity that will protect the health, safety and welfare of the people of Fort Collins, including but not limited to economic health, the City Council wishes to also make available certain remote quasi-judicial hearings by the City Council, City Boards and Commissions and administrative hearing officers charged with the exercise of quasi-judicial functions under the Fort Collins Municipal Code (“City Code”) and Land Use Code (collectively “Quasi-Judicial Hearings”), and certain remote neighborhood meetings required by the Land Use Code (“Neighborhood Meetings”), and essential Board Meetings, provided that criteria set forth below can be met; and

WHEREAS, utilizing technology, whether telephonic, on-line platforms, other technological methods or a combination thereof (“Remote Technology”) to conduct certain City Council Meetings, Quasi-Judicial Hearings, Neighborhood Meetings, and essential Board Meetings is authorized by City Council in recognition that the use of such technology is consistent with the Colorado Open Meetings Laws, Colorado Revised Statutes Sections 24-6-401 et seq. (2019) and Article II of the Charter of the City of Fort Collins (“City Charter”); and

WHEREAS, in accordance with the guidance of the Larimer County Sixth Public Health Order Re: Stay-At-Home dated March 25, 2020, regulating essential/critical businesses (which may be extended or replaced with a subsequent similar Order), and the Colorado Department of Public Health and Environment Third Updated Public health Order 20-24 Implementing Stay At Home Requirements dated April 1, 2020, regarding essential/critical businesses (which may be extended or replaced with a subsequent similar Order), City Council recognizes that certain essential business and infrastructure must continue to occur during this time to protect the physical and economic health of the City of Fort Collins and its citizens; and

WHEREAS, City Council will permit certain remote Quasi-Judicial Hearings to occur as defined in Section 4 because they are found to be essential/critical to maintaining the citizens’ physical and economic health; and

WHEREAS, the types of Quasi-Judicial Hearings that are not authorized by this Ordinance to occur remotely are: (1) Appeals; (2) Zoning and Rezoning matters pursuant to Fort
Collins Land Use Code Division 2.9; (3) Addition of Permitted Use matters pursuant to the Land Use Code Division 1.3 section 1.3.4; and

WHEREAS, certain Quasi-Judicial Hearings are authorized to be conducted using Remote Technology if the technology used ensures that the hearings meet the procedural safeguards required to provide due process of law under the United States and Colorado constitutions, the requirements of which include, but are not limited to: (1) notice; (2) an adequate right to be heard, present evidence, rebut evidence and to see or hear all of the public proceedings; (3) Hearings are fair and impartial with public roll call of votes; (4) the decision is supported by adequate findings; and (5) a sufficient record of the proceedings can be made (collectively, “Due Process Requirements”); and

WHEREAS, in addition, certain City Boards and Commissions are responsible for functions that, while not quasi-judicial in nature, are time-sensitive and important to the City Council’s ability to complete action on critical programs such as the federally funded Community Development Block Grant and HOME programs or other programs for funding or supporting community services or programs, and in order to carry out those functions during the local emergency and maintain required physical distancing and other measures to prevent the spread of COVID-19, Boards and Commissions may also need to meet and carry out essential City business using Remote Technology; and

WHEREAS, Article II, Section 6 of the City Charter authorizes the Council to adopt emergency ordinances, which shall be finally passed on first reading by the affirmative vote of at least five members of the Council and which shall contain a specific statement of the nature of the emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that:

Section 1. The City Council hereby finds that an emergency exists requiring the immediate adoption of this Ordinance under Article II, Section 6 of the City Charter to enable the City to use Remote Technology to conduct certain City Council Meetings, Quasi-Judicial Hearings and Neighborhood Meetings, as well as for Board and Commission meetings needed to carry out essential City business, during the pendency of a public health or other local emergency affecting the city declared in accordance with Section 2-671(a)(1) of the City Code (“Declared Local Emergency”), in order to protect the physical and economic health, safety and welfare of the people of Fort Collins that would result from the inability to conduct such meetings and essential City business.

Section 2. The City Council finds that allowing certain City Council Meetings, Quasi-Judicial Hearings, Neighborhood Meetings, and Board and Commission meetings needed to carry out essential City business, to be held using Remote Technology is consistent with the Colorado Open Meetings Laws of Colorado Revised Statute Sections 24-6-401 et. seq. (2019) and Article II of the City Charter.
Section 3. The Council hereby adopts the following special provisions for City Council meetings using Remote Technology during a Declared Local Emergency, to supplement the provisions of Division 2, Article II of Chapter 2 of the City Code, as follows:

A. In the event the City Council is unable during the course of a Declared Local Emergency to conduct its regular meeting at the day, hour, and place fixed by City Code § 2-28 or at a special meeting pursuant to City Code § 2-29 because meeting in person would not be prudent due to a public health emergency or other unforeseen circumstances affecting the city, meetings may be conducted by telephone, electronically or by other means of communication so as to provide reasonably available participation by the public, consistent with the requirements of this Ordinance.

B. Meetings of the City Council or Council committees may be conducted by telephone, electronically or by other means, and remote participation shall constitute presence and actual attendance for purposes of establishing a quorum, subject to the following conditions:

1. The City Manager or the Mayor determines that meeting in person would not be prudent because of a public health emergency or other unforeseen circumstances affecting the city;

2. All members of the Council participating in the meeting can see and hear one another, or, if circumstances preclude an arrangement that would allow visual communication, hear one another;

3. All members of the Council participating in the meeting can see, hear or read all discussion, comment, and testimony in a manner designed to provide maximum information sharing and participation;

4. Members of the public have equivalent access to all discussion, comment and testimony, and all Council votes and other dialogue, in a manner designed to provide maximum information sharing and participation;

5. At least one member of the Council must be present at the physical meeting location, unless not feasible due to the public health emergency or other unforeseen circumstances;

6. All votes must be conducted by roll call;

7. All other meeting-related requirements must be met, including advance notice with an explanation of how Councilmembers and the public may participate and stating the right of the public to monitor the meeting, as well as the recording and preparation of meeting minutes; and

8. Only matters that have been determined by the City Manager and Mayor to be pressing and to require prompt action by the Council may be
considered when a meeting is conducted pursuant to these procedures. An explanation for the basis of such determination shall be included in the materials for each item to be considered.

C. The City Clerk or their designee shall initiate the meeting by telephone, electronically or through other means not more than forty-five (45) minutes and not less than fifteen (15) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the City Clerk or their designee shall make at least one attempt to re-initiate the connection.

Section 4. The Council hereby adopts the following special provisions permitting Quasi-Judicial Hearings, excluding those listed in Subsection 4.B. below, during a Declared Local Emergency using Remote Technology, to supplement the provisions of Division 2, Article II and Article III of Chapter 2 of the City Code, other applicable provisions of the City Code, applicable provisions adopted by Council (such as the Boards and Commissions Manual) and the City’s Land Use Code, as follows:

A. In the event a scheduled in-person Quasi-Judicial Hearing not excluded under Subsection 4.B. cannot be conducted at the day, hour and place fixed by City Code § 2-28, § 2-29 and § 2-72 or pursuant to other City Code or Council-adopted provisions applicable to City Board or Commission or the City’s Land Use Code, because meeting in person would not be prudent or permitted due to a Declared Local Emergency, the Quasi-Judicial Hearing may be conducted by the use of Remote Technology so long as the requirements of Subsection 4.C. below are met. Remote participation in any Quasi-Judicial Hearing by any member of the City Council or of any Board or Commission shall constitute presence and actual attendance for purposes of establishing a quorum.

B. The following Quasi-Judicial Hearings are not allowed to be heard remotely:

1. Appeals of any decision as such appeals may be authorized under the City of Fort Collins Municipal Code and Land Use Code. Variances considered by the Zoning Board of Appeals are not “appeals” under this provision.

2. Zoning and Rezoning matters pursuant to Fort Collins Land Use Code Division 2.9.

3. Addition of Permitted Use matters pursuant to the Land Use Code Division 1.3 section 1.3.4.

C. Quasi-Judicial Hearings not excluded under Subsection 4.B. may be conducted using Remote Technology if the following criteria are met:

1. A determination of necessity is made as follows:
   i. For a City Council proceeding, the City Manager, after consultation with the Mayor and the City Attorney, determines that holding an in-person Quasi-Judicial Hearing by City Council
would not be prudent because of conditions related to a Declared Local Emergency.

ii. For a proceeding of any other decision-making body, the City Manager or their designee, after consultation with the chairperson of such body and the City Attorney, determines that holding an in-person Quasi-Judicial Hearing would not be prudent because of conditions related to a Declared Local Emergency.

iii. For a Type I hearing or other quasi-judicial proceeding before an individual decisionmaker under the City’s Land Use Code, the Director of Community Development and Neighborhood Services, in consultation with the City Attorney, determines that holding an in-person Quasi-Judicial Hearing would not be prudent because of conditions related to a Declared Local Emergency.

iv. For a quasi-judicial proceeding before an individual decisionmaker under any provision of the City Code, the City Manager or their designee, in consultation with the City Attorney, determines that holding an in-person Quasi-Judicial Hearing would not be prudent because of conditions related to a Declared Local Emergency.

2. Legally sufficient notice of the Quasi-Judicial Hearing has been given.

3. The Remote Technology used for the Quasi-Judicial Hearing is sufficient to satisfy the requirements of Due Process as described above and as follows:

   i. All members of the decision-making body can see and hear one another or, if circumstances preclude an arrangement that would allow visual communication, hear one another;

   ii. All members of the decision-making body or the individual decisionmaker, as applicable, can see, hear or read all discussion, comment and testimony in a manner designed to provide the body or decisionmaker with reasonably complete and accurate perception of such evidentiary material;

   iii. Parties-in-interest in the Quasi-Judicial Hearing have fair and reasonable access to all discussion, comment and testimony, evidentiary material and dialogue;

   iv. Parties-in-interest in the Quasi-Judicial Hearing have a fair and reasonable opportunity to present information to the decision-making body or individual decisionmaker, as applicable; and

   v. All votes of the decision-making body must be conducted by a roll call of the members.

4. The Remote Technology used to hold the Quasi-Judicial Hearing is reasonably be expected to record and maintain the decision made at the Hearing and the evidence and findings supporting that decision; and
5. The Remote Technology used to hold the Quasi-Judicial Hearing is reasonably be expected to make or support the making of a complete record of the proceedings, including all evidence presented and considered, all testimony and all discussion by the decisionmakers for purposes of any right of appeal available under the City Code, the City’s Land Use Code or federal or state law.

D. Any person or applicant seeking a quasi-judicial decision from City Council, a City Board or Commission or an administrative hearing officer under the City Code or the City’s Land Use Code, shall be notified in writing or by email of the intention to conduct a quasi-judicial hearing using Remote Technology. Such person or applicant shall be entitled to request that the Quasi-Judicial Hearing be delayed until such time as the Hearing can be conducted in person. Any person or applicant proceeding with and participating in a Quasi-Judicial Hearing using Remote Technology shall be deemed to have consented to such method of providing the Quasi-Judicial Hearing.

E. The Director of Community Development and Neighborhood Services, in consultation with the City Attorney, may promulgate reasonable policies and procedures to implement these requirements during a Declared Local Emergency for Quasi-Judicial Hearings conducted under the authority of the City’s Land Use Code by Boards or Commissions or administrative hearing officers.

Section 5. The City Council hereby authorizes Neighborhood Meetings required under the City’s Land Use Code to be conducted using Remote Technology during a Declared Local Emergency, so long as any such remote Neighborhood Meeting satisfies all of the following requirements of Section 2.2.2 of the City’s Land Use Code:

1. Provides a forum for citizens of area neighborhoods, applicants and the Director to identify, review, discuss, and work through any solutions to identified concerns for development applications during the conceptual planning stage.

2. Complies with requirements of Notice articulated in Land Use Code Section 2.2.2(C).

3. Provides a forum for attendance by citizens of the affected area neighborhoods, the applicant/applicant representative and the Director/Director’s representative.

4. Complies with the Summary of the meeting directives in Land Use Code Section 2.2.2(E).

Section 6. The Council hereby adopts the following special provisions for City Board and Commission meetings during a Declared Local Emergency that are not Quasi-Judicial Hearings, to supplement the provisions of Division 2, Article II and Article III of Chapter 2 of the City Code and other provisions adopted by the Council to govern City Boards and
Commissions (including the Boards and Commissions Manual), and to supersede any applicable provisions to the contrary, as follows:

A. In the event a City Board or Commission is unable during the course of a Declared Local Emergency to conduct its essential regular (non-quasi-judicial) business with members physically present at a meeting because meeting in-person would not be prudent due to a public health emergency or other unforeseen circumstances affecting the city, such meeting may be conducted by telephone, electronically or by other means of communication so as to provide reasonably available participation by the public, consistent with the requirements of this Ordinance.

B. Essential meetings of a City Board or Commission, other than Quasi-Judicial Hearings, may be conducted by telephone, electronically or by other means, and remote participation shall constitute presence and actual attendance for purposes of establishing a quorum, subject to the following conditions:

1. The City Manager or their designee, in consultation with the chairperson of the Board or Commission and Council Liaison to the Board or Commission, determines that meeting in person would not be prudent because of a Declared Local Emergency and that the business to be conducted by the Board or Commission is essential;

2. All members of the Board or Commission participating in the meeting can see and hear one another or, if circumstances preclude an arrangement that would allow visual communication, hear one another;

3. All members of the Board or Commission participating in the meeting can see, hear or read all discussion, comment and testimony in a manner designed to provide maximum information sharing and participation;

4. Members of the public have equivalent access to all discussion, comment and testimony, and all votes and other dialogue, in a manner designed to provide maximum information sharing and participation;

5. At least one member of the Board or Commission must be present at the physical meeting location, unless not feasible due to the Declared Local Emergency or other unforeseen circumstances;

6. All votes must be conducted by roll call;

7. All other meeting-related requirements must be met, including advance notice with an explanation of how members of the Board or Commission and the public may participate and stating the right of the public to monitor the meeting, as well as the recording and preparation of meeting minutes; and
8. Only matters that are the subject of the determination described in Subsection 1. above may be considered when a meeting is conducted pursuant to these procedures.

C. The staff liaison for the Board or Commission or their designee shall initiate the meeting by telephone, electronically, or through other means not more than forty-five (45) minutes and not less than fifteen (15) minutes prior to the scheduled time of the meeting. Upon disconnection during a meeting, the staff liaison or their designee shall make at least one attempt to re-initiate the connection.

Section 7. This Ordinance shall supersede and replace in all respects Emergency Ordinance No. 054, 2020.

Introduced, considered favorably on first reading, and ordered published this 14th day of April, A.D. 2020, and to be presented for final passage on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

______________________________
City Clerk

Passed and adopted on final reading on the 21st day of April, A.D. 2020.

__________________________________
Mayor

ATTEST:

______________________________
City Clerk
Electric Utility Enterprise Board Meeting
April 21, 2020
(after the Regular Council Meeting)

• CALL MEETING TO ORDER

1. Consideration and Approval of the Minutes from the April 7, 2020 Electric Utility Enterprise Board Meeting.

The purpose of this item is to approve the minutes from the April 7, 2020 Electric Utility Enterprise Board meeting.

2. First Reading of Ordinance No. 011, Authorizing an Intergovernmental Agreement with the Colorado Department of Transportation for the Lease of Fiber Optic Data Transport Capacity. (staff: Erin Shanley; 5 minute presentation, 10 minute discussion)

This item is coming to Council due to its time-sensitive nature related to network operation and continued business activities. Many aspects of Connexion’s network design and buildout, already in progress, are dependent upon this nearly completed item.

The purpose of this item is to approve a multi-year Intergovernmental Agreement (IGA) between the City’s Electric Utility Enterprise and the Colorado Department of Transportation (CDOT) for the purpose of leasing two dark fiber strands from Fort Collins to Denver. CDOT was chosen to provide this service as it met all requirements at the lowest price available. In addition, this IGA helps to meet requirements detailed in IGAs referenced in Resolutions 2019-072 and 2019-073 (shared regional Broadband Transport and Access services with the City of Loveland and Town of Estes Park) by providing such access between Fort Collins and Denver.

• OTHER BUSINESS

• ADJOURNMENT
AGENDA ITEM SUMMARY
Electric Utility Enterprise Board

AGENDA ITEM SUMMARY
April 21, 2020

STAFF
Delynn Coldiron, City Clerk

SUBJECT
Consideration and Approval of the Minutes From the April 7, 2020 Electric Utility Enterprise Board Meeting.

EXECUTIVE SUMMARY
The purpose of this item is to approve the minutes from the April 7, 2020 Electric Utility Enterprise Board meeting.

ATTACHMENTS
1. April 7, 2020 (PDF)
ELECTRIC UTILITY ENTERPRISE BOARD

April 7, 2020

10:10 PM

CALL MEETING TO ORDER

(Due to COVID-19 crisis and state and local orders to stay at home and not gather, all Councilmembers and staff attended the meeting remotely, via teleconference.)

PRESENT: Troxell, Cunniff, Stephens, Summers, Gutowsky, Pignataro, Gorgol
Staff present: Atteberry, Daggett, Coldiron

1. Consideration and Approval of the Minutes of the March 20, 2020 Electric Utility Enterprise Board Meeting. (Adopted)

The purpose of this item is to approve the minutes from the March 20, 2020 Electric Utility Enterprise Board meeting.

Vice President Stephens made a motion, seconded by Boardmember Cunniff, to approve the minutes of the March 20, 2020 meeting.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristin Stephens, District 4
SECONDER: Ross Cunniff, District 5
AYES: Troxell, Cunniff, Stephens, Summers, Gutowsky, Pignataro, Gorgol

2. Items Relating to the Epic Loan Program. (Adopted on Second Reading)

A. Second Reading of Ordinance No. 009, Authorizing a Loan Agreement with Vectra Bank Colorado to Provide Funding for the Epic Loan Program.

B. Second Reading of Ordinance No. 010, Authorizing a Loan Agreement with the Colorado Energy Office to Provide Funding for the Epic Loan Program.

These Ordinances, unanimously adopted on First Reading on March 20, 2020, authorize the Enterprise to borrow additional capital for the Epic Loan Program from two third party lenders for 15-year capital. In 2012, the City Council established, by ordinance, the On-Bill Utility Financing Program, which is now known as the Epic Loan Program. The Program provides financing for home energy upgrades by making loans to property owners who are customers of Fort Collins Utilities. Ordinance No. 009 authorizes the Enterprise to borrow up to $2.5 million, under a line of credit, from Vectra Bank Colorado (Vectra Loan) as additional funding for the Program. Ordinance No. 010 authorizes the Enterprise to borrow $800,000 at 0% interest from the Colorado Energy Office (CEO Loan) as additional funding for the Program. Fifty percent of customers to date have used longer loan terms to reduce monthly payments and/or undertake more comprehensive energy efficiency projects, making 15-year capital an essential component for the success of the Program.

Between First and Second Reading of Ordinance No. 010, approving the loan agreement with the Colorado Energy Office (CEO), revisions have been made to the loan agreement and its exhibits to clarify that the Enterprise’s obligation to repay the CEO loan is to be paid only from the Electric Utility’s “Net Pledged Revenues,” as this term is now defined in the CEO loan agreement. Revisions have also been made to clarify that the Enterprise’s obligation to repay the CEO loan shall be on parity with the Enterprise’s obligations to repay the existing U.S. Bank loan and the proposed Vectra Bank loan, but subordinate to the Enterprise’s obligation to repay the bonds issued in 2018 for Connexion.

Vice President Stephens made a motion, seconded by Boardmember Summers, to adopt Ordinance No. 009, on Second Reading.

President Troxell commended the EPIC program.
Boardmember Cunniff echoed the comments and noted this item was under certain time constraints that necessitated its consideration.

<table>
<thead>
<tr>
<th>RESULT:</th>
<th>ORDINANCE NO. 009 ADOPTED ON SECOND READING [UNANIMOUS]</th>
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<tbody>
<tr>
<td>MOVER:</td>
<td>Kristin Stephens, District 4</td>
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<tr>
<td>SECONDER:</td>
<td>Ken Summers, District 3</td>
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<td>AYES:</td>
<td>Troxell, Cunniff, Stephens, Summers, Gutowsky, Pignataro, Gorgol</td>
</tr>
</tbody>
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Vice President Stephens made a motion, seconded by Boardmember Cunniff, to adopt Ordinance No. 010, on Second Reading.

<table>
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<tr>
<th>RESULT:</th>
<th>ORDINANCE NO. 010 ADOPTED ON SECOND READING [UNANIMOUS]</th>
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<tr>
<td>MOVER:</td>
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<td>AYES:</td>
<td>Troxell, Cunniff, Stephens, Summers, Gutowsky, Pignataro, Gorgol</td>
</tr>
</tbody>
</table>

- OTHER BUSINESS

- ADJOURNMENT

The meeting adjourned at 10:24 PM.

__________________________________
President

ATTEST:

__________________________________
Secretary
SUBJECT

First Reading of Ordinance No. 011, Authorizing an Intergovernmental Agreement with the Colorado Department of Transportation for the Lease of Fiber Optic Data Transport Capacity.

EXECUTIVE SUMMARY

This item is coming to Council due to its time-sensitive nature related to network operation and continued business activities. Many aspects of Connexion’s network design and buildout, already in progress, are dependent upon this nearly completed item.

The purpose of this item is to approve a multi-year Intergovernmental Agreement (IGA) between the City’s Electric Utility Enterprise and the Colorado Department of Transportation (CDOT) for the purpose of leasing two dark fiber strands from Fort Collins to Denver. CDOT was chosen to provide this service as it met all requirements at the lowest price available. In addition, this IGA helps to meet requirements detailed in IGAs referenced in Resolutions 2019-072 and 2019-073 (shared regional Broadband Transport and Access services with the City of Loveland and Town of Estes Park) by providing such access between Fort Collins and Denver.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

As part of Fort Collins Connexion’s delivery of Internet, voice, and video services, fiber optic connectivity to regional and national telecommunication facilities outside the City is required. Fort Collins Connexion’s system design calls for redundant paths utilizing “dark fiber” to connect to data centers which provide connectivity with multiple telecommunication providers (these data centers are also known as “meet-me rooms”). The nearest data center meeting Fort Collins Connexion technical requirements is located at 910 15th Street in Denver, Colorado and has direct connectivity to multiple providers with which the City already has contracts for Internet, voice, and video services. To utilize connections to these and other providers from this location, a fiber back-haul circuit is needed to connect back to Fort Collins Connexion local network equipment in Fort Collins.

On January 11, 2019, Fort Collins Connexion received proposals in response to Request for Proposal #8848 Upstream Connectivity Services. In addition to the single response received by the City, Connexion contacted CDOT and received information from CDOT regarding availability of “dark” (i.e., unused) fiber from Fort Collins to Denver. CDOT provided the most competitive rate to lease two strands of fiber to the City for up to twenty years. The table below shows the comparison of quoted pricing from Zayo and CDOT.
**Price Comparison**

<table>
<thead>
<tr>
<th></th>
<th>Zayo</th>
<th>CDOT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Price</td>
<td>$2,970.00</td>
<td>$1,212.22*</td>
</tr>
<tr>
<td>Term of Contract</td>
<td>5 year</td>
<td>20 year</td>
</tr>
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</table>

* CDOT’s pricing begins at $902.27/month in year one and escalates 3% each year to $1582.14/month in year 20, for an average of $1212.22/month over the life of the agreement.

CDOT maintains a state-wide fiber-optic network and leases unused fiber strands to other government and municipal entities. CDOT meets Fort Collins Connexion’s technical requirements for two strands of dark fiber following a path from Fort Collins to 910 15th St in Denver. CDOT contracts with Zayo to provide day-to-day maintenance and support of this fiber, as well as emergency response.

The transport and capacity obtained on CDOT fibers under this lease will be part of the services and facilities shared with the City of Loveland (Loveland Pulse) and Town of Estes Park (Trailblazer Broadband) as part of the existing IGAs approved by Council in Resolutions 2019-072 and 2019-073 (shared regional Broadband Transport and Access services with the City of Loveland and Town of Estes Park).

The request from Fort Collins Connexion is for the Electric Utility Enterprise Board to approve (by Ordinance because of the lengthy term) the proposed IGA with CDOT for lease of one pair (2 fiber strands) of dark fiber for up to twenty years, as a necessary physical connection for the operation of telecommunication facilities and services delivered by the Enterprise.

**CITY FINANCIAL IMPACTS**

This IGA represents no impact to the General Fund. The fiber lease costs will be paid from Fort Collins Connexion’s 2020 budget and funded by appropriated bond proceeds in the short term and by Connexion user revenues thereafter.

**ATTACHMENTS**

1. Connexion_AIS_CDOT_Pricing (PDF)
2. CDOT Dark Fiber Presentation (PDF)
## City of Fort Collins I-25 Fiber Lease Estimate - Prospect Road to FR GIGA Pop - One pair (2 fiber strands)

<table>
<thead>
<tr>
<th>Corridor Description</th>
<th>Fiber Strands</th>
<th>Lease Rate per Strand</th>
<th>Corridor Length</th>
<th>Annual Index Increase Rate</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
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<th>16</th>
<th>17</th>
<th>18</th>
<th>19</th>
<th>20</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-25 to 15th St.</td>
<td>2</td>
<td>$1,750.00</td>
<td></td>
<td></td>
<td>6%</td>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

| Total Annual Lease Fee* | $10,827 | $11,152 | $11,487 | $11,831 | $12,186 | $12,552 | $12,928 | $13,316 | $13,716 | $14,127 | $14,551 | $14,987 | $15,437 | $15,902 | $16,377 | $16,869 | $17,375 | $17,896 | $18,423 | $18,965 |

**Price per Month**: $902.27 $929.34 $957.22 $985.94 $1,015.51 $1,045.98 $1,077.36 $1,109.68 $1,142.97 $1,177.26 $1,212.58 $1,248.95 $1,286.42 $1,325.02 $1,364.77 $1,405.71 $1,447.88 $1,491.32 $1,535.06 $1,582.54

**Average Price per Month (over 20yr lease)**: $1,212.22
Electric Utility Enterprise Board

Authorization of Multi-Fiscal Year Financial Commitments for the Lease of Dark Fiber in Furtherance of Fort Collins Connexion's Delivery of Telecommunication Services

April 21, 2020
Fiber Connectivity to the Outside World

• Connexion’s design calls for redundant paths

• Connect to a “Telco Hotel” – a Data Center providing connectivity with multiple telecommunication providers

• Nearest data center providing multiple Tier 1 Internet providers is at 910 15th St. in Denver, Colorado

• Generally, Dark Fiber solutions requires two (2) strands of fiber (transmit and receive)
Colorado Department of Transportation (CDOT)

- Maintains a state-wide fiber network and leases unused fiber strands
- Provides direct path from Fort Collins to 910 15th St in Denver
- Providing service at less than half the price of the competing proposal
- CDOT’s pricing was bench-marked against Zayo’s response to RFP #8848

**Price Comparison**

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* CDOT’s pricing begins at $902.27/month in year one and escalates 3% each year to $1582.14/month in year 20, for an average of $1212.22/month over the life of the agreement.
Authority and Source of Payment

Authority
The City Charter (Article XII, Section 7, Article V, Section 19.3) and City Code authorize the Electric Utility Enterprise to incur other obligations (in addition to revenue bonds) – such as this long-term lease. Council acts ex officio as the Board of the Electric Utility Enterprise.

Source of Payment
The cost of the authorized long-term lease is accommodated within Connexion’s annual budget and funded by Connexion’s bond proceeds and revenues over time.

Ordinance Summary
The Enterprise Board approves this 20-year lease with the Colorado Department of Transportation for a pair of dark fiber (2 strands) from Fort Collins to 910 15th St Denver, Colorado.
Connexion requests that the Electric Utility Enterprise Board approve (by Ordinance) the IGA with CDOT for one pair (2 fiber strands) of dark fiber that is necessary for the operation of the telecommunications utility’s provision of broadband services.
ORDINANCE NO. 011
OF THE CITY OF FORT COLLINS ELECTRIC UTILITY ENTERPRISE
AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
WITH THE COLORADO DEPARTMENT OF TRANSPORTATION FOR
THE LEASE OF FIBER OPTIC DATA TRANSPORT CAPACITY

WHEREAS, the City of Fort Collins, Colorado is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Art. XX of the Constitution of the State of Colorado and the home rule charter of the City (the “Charter”); and

WHEREAS, pursuant to Section 19.3(b) of the Charter Art. V (“Section 19.3(b)”), the City Council has established the City’s Electric Utility as an enterprise of the City (the “Enterprise”) in ordinances codified in §26-392 of the Fort Collins City Code (the “Code”); and

WHEREAS, pursuant to Section 19.3(b) and Code §26-392, the Council has authorized the Enterprise, by and through the Council sitting as the board of the Enterprise (the “Board”), to enter into financial obligations, payable solely from operations of the Electric Utility; and

WHEREAS, voters of Fort Collins approved all legally required ballot measures to authorize the City to acquire and operate municipal telecommunications utility facilities and services (a “broadband system”), and the Enterprise has undertaken the establishment and operation of a broadband system through the Electric Utility (“Fort Collins Connexion”); and

WHEREAS, to provide a reliable and cost-effective broadband system, the City desires to collaborate with other governmental entities to leverage resources, including connections with regional and national telecommunication networks, for the benefit of the City’s residents and Fort Collins Connexion ratepayers; and

WHEREAS, the Colorado Department of Transportation (CDOT) built and maintains a fiber optic network to manage State highways which contains unused “dark” fiber and facilities located along Interstate Highway 25 (I-25), adjacent to the City’s boundaries; and

WHEREAS, Fort Collins Connexion staff has negotiated access and data transport rights through third party telecommunications facilities, and needs cost-effective means to access those facilities and services in Denver; and

WHEREAS, the parties recently negotiated a proposed intergovernmental dark fiber lease agreement to share capital improvements by CDOT and provide Fort Collins Connexion transport service on CDOT facilities along I-25, a copy of which is attached hereto an Exhibit A (the “IGA”) for up to twenty years; and

WHEREAS, under the IGA, CDOT will dedicate two fiber optic strands for Fort Collins Connexion and other governmental service purposes, including connecting the City’s broadband system with a regional telecommunication facility in Denver, Colorado; and
WHEREAS, as Colorado governmental entities, the City, acting through the Enterprise, and the State of Colorado are authorized, pursuant to Colorado Revised Statutes Section 29-1-203, to cooperate or contract with one another to acquire or provide any government function, service, or facility lawfully authorized to each; and

WHEREAS, the long-term license contract authorized under this Ordinance will permit Fort Collins Connexion to connect its subscribers to regional and national telecommunication networks, maintain a reliable broadband system, and will be payable solely from revenues of Fort Collins Connexion; and

WHEREAS, the Enterprise Board’s adoption of this Ordinance is in the exercise of its authority as described above to approve and enter into contracts like the Authorized Obligations to enable Fort Collins Connexion to offer video services to its customers.

WHEREAS, the City Council, acting ex officio as the Board pursuant to Section 19.3(b), has determined the IGA between the Enterprise and CDOT is in the best interests of the City, its citizens, and ratepayers to accomplish the purposes set forth therein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF THE ELECTRIC UTILITY ENTERPRISE OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Enterprise Board hereby makes and adopts the determinations and findings contained in the recitals set forth above. In addition, the Mayor, as the Enterprise’s president, and the City Clerk, as the Enterprise’s secretary, are both authorized to sign this Ordinance in their respective capacities.

Section 2. That the Enterprise Board hereby finds it is in the best interests of the Enterprise, the Electric Utility and the City to enter into the IGA with the Colorado Department of Transportation.

Section 3. That the Enterprise Board hereby approves the IGA, and the Mayor is authorized, in consultation with the City Manager and City Attorney and consistent with this Ordinance, to finalize and execute the IGA, as the Enterprise’s president, in substantially the form attached hereto as Exhibit “A”.

Section 4. That in addition, the City Manager is authorized, during the term of the IGA and, in consultation with the City Attorney, to approve and execute such amendments to the IGA as the City Manager determines to be reasonably necessary and appropriate to: (a) protect the City’s interests or to effectuate the purposes of this Ordinance and (b) provide a benefit to the City; provided that any additional financial obligation is conditioned upon funds having been already appropriated and approved by the City Council or conditioned upon such appropriation.

Section 5. That the IGA shall not constitute a debt or obligation of the City and shall be payable solely from the revenues of Fort Collins Connexion.
Introduced, considered favorably on first reading, and ordered published this 21st day of April, A.D. 2020, and to be presented for final passage on the 5th day of May, A.D. 2020.

_______________________________
President

ATTEST:

_______________________________
Secretary

Passed and adopted on final reading on the 5th day of May, A.D. 2020.

_______________________________
President

ATTEST:

_______________________________
Secretary
# STATE OF COLORADO

## INTERGOVERNMENTAL AGREEMENT (NON-EXPENDITURE)

### COVER PAGE

<table>
<thead>
<tr>
<th>State Agency</th>
<th>Contract Number</th>
</tr>
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<tbody>
<tr>
<td>Colorado Department of Transportation (CDOT)</td>
<td>20-HAA-XE-03001</td>
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<table>
<thead>
<tr>
<th>Contractor</th>
<th>Contract Performance Beginning Date</th>
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</thead>
<tbody>
<tr>
<td>City of Fort Collins Electric Utility Enterprise, dba Fort Collins Connexion (Connexion or Contractor)</td>
<td>Effective Date</td>
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</table>

<table>
<thead>
<tr>
<th>Initial Contract Expiration Date</th>
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</thead>
<tbody>
<tr>
<td>Twenty years from the Effective Date.</td>
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</table>

### Contract Authority

§24-110-101 et seq., C.R.S.

### Contract Purpose

CDOT to lease Connexion two existing dark single-mode fiber optics telecommunication strands located within the public rights of way along Interstate 25 from Milepost 268.2 to Milepost 209.2 and fiber strands extending further into Denver, terminating at the super vault outside of 910 15th Street, Denver, CO.

### Exhibits and Order of Precedence

The following Exhibits and attachments are included with this Contract:

1. Exhibit A – Statement of Work
2. Exhibit B – Sample Option Letter

In the event of a conflict or inconsistency between this Contract and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

1. Colorado Special Provisions in §18 of the main body of this Contract.
2. The provisions of the other sections of the main body of this Contract.
4. Exhibit B, Sample Option Letter.

### Principal Representatives

<table>
<thead>
<tr>
<th>For the State:</th>
<th>For Contractor:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bob Fifer</td>
<td>John Robbins</td>
</tr>
<tr>
<td>Colorado Department of Transportation</td>
<td>City of Fort Collins Electric Utility Enterprise dba Fort Collins</td>
</tr>
<tr>
<td>Division of Maintenance &amp; Operations</td>
<td>Connection</td>
</tr>
<tr>
<td>425 C Corporate Circle</td>
<td>215 N. Mason Street</td>
</tr>
<tr>
<td>Golden, CO 80401</td>
<td>Fort Collins, CO 80524</td>
</tr>
<tr>
<td><a href="mailto:bob.fifer@state.co.us">bob.fifer@state.co.us</a></td>
<td><a href="mailto:jrobbins@fcgov.com">jrobbins@fcgov.com</a></td>
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Exhibit A

STATE OF COLORADO
INTERGOVERNMENTAL AGREEMENT (NON-EXPENDITURE)

COVER PAGE

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### Contract Authority

§24-110-101 et seq., C.R.S.

### Contract Purpose

CDOT to lease Connexion two existing dark single-mode fiber optics telecommunication strands located within the public rights of way along Interstate 25 from Milepost 268.2 to Milepost 209.2 and fiber strands extending further into Denver, terminating at the super vault outside of 910 15th Street, Denver, CO.

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1. Exhibit A – Statement of Work
2. Exhibit B – Sample Option Letter

In the event of a conflict or inconsistency between this Contract and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

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2. The provisions of the other sections of the main body of this Contract.
4. Exhibit B, Sample Option Letter.

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Exhibit A

STATE OF COLORADO
INTERGOVERNMENTAL AGREEMENT (NON-EXPENDITURE)

COVER PAGE

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Contract represents and warrants that the signer is duly authorized to execute this Contract and to bind the Party authorizing such signature.

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<td>Jared S. Polis, Governor</td>
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<td></td>
<td>Department of Transportation</td>
</tr>
<tr>
<td>By: ___________________________, Enterprise Board President</td>
<td>Shoshana M. Lew, Executive Director</td>
</tr>
<tr>
<td>Date: __________________________</td>
<td>By: Stephen Harelson, P.E., Chief Engineer</td>
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1. PARTIES

This Contract is entered into by and between Contractor named on the Cover Page for this Contract (the “Contractor”), and the STATE OF COLORADO acting by and through the State Agency named on the Cover Page for this Contract (the “State”). Contractor and the State agree to the terms and conditions in this Contract.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Contract shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Contract before the Effective Date.

B. Initial Term

The Parties’ respective performances under this Contract shall commence on the Contract Performance Beginning Date shown on the Cover Page for this Contract and shall terminate on the Initial Contract Expiration Date shown on the Cover Page for this Contract (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Contract.

C. Extension Terms - State’s Option

Subject to mutual agreement the State, at its discretion, shall have the option to extend the performance under this Contract beyond the Initial Term for a period, or for successive periods, of ten years or less at the same rates and under the same terms specified in the Contract (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Contractor in a form substantially equivalent to the Sample Option Letter attached to this Contract. The total duration of this Contract, including the exercise of any options to extend, shall not exceed forty years from its Effective Date.
D. Early Termination in the Public Interest

The State is entering into this Contract to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Contract ceases to further the public interest of the State, the State, in its discretion, may terminate this Contract in whole or in part. A determination that this Contract should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Contract by the State for breach by Contractor, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Contractor shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. To the extent this Agreement or any provision in it constitutes a multiple fiscal year debt or financial obligation of the Contractor, it shall be subject to annual appropriation by the Contractor’s City Council as required in Article V, Section 8(b) of the City of Fort Collins Charter, City Code Section 8-186, and Article X, Section 20 of the Colorado Constitution. The Contractor shall have no obligation to continue this Agreement in any fiscal year for which no such supporting appropriation has been made.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. “Breach of Contract” means the failure of a Party to perform any of its obligations in accordance with this Contract, in whole or in part or in a timely or satisfactory manner. If Contractor is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Contract, then such debarment or suspension shall constitute a breach.

B. “Business Day” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.

C. “Contract” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.

D. “Contractor Records” means any and all Contractor data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA and records of current or former users of public utility services delivered by Contractor.

E. “CORA” means the Colorado Open Records Act, §§24-72-200.1, et. seq., C.R.S.
Exhibit A

F. “Disaster” means a sudden event which causes severe damage including, but not limited to, droughts, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, riots, civil disorders or other catastrophes, except it does not include economic dislocations.

G. “Effective Date” means the date on which this Contract is approved and signed by the Chief Engineer of the Colorado Department of Transportation or designee, as shown on the Signature Page for this Contract.

H. “Exhibits” means the exhibits and attachments included with this Contract as shown on the Cover Page for this Contract.

I. “Extension Term” means the time period defined in §2.C.

J. “Goods” means any movable material acquired, produced, or delivered by Contractor as set forth in this Contract and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.

K. “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.”

L. “Initial Term” means the time period defined in §2.B.

M. “Party” means the State or Contractor, and “Parties” means both the State and Contractor.

N. “Services” means the services to be performed by Contractor as set forth in this Contract, and shall include any services to be rendered by Contractor in connection with the Goods.

O. “State Fiscal Rules” means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

P. “State Fiscal Year” means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

Q. “State Records” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

R. “Subcontractor” means third-parties, if any, engaged by Contractor to aid in performance of the Work.

S. “Work” means the Goods delivered and Services performed pursuant to this Contract.

T. “Work Product” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work
Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Contract that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Contractor shall complete the Work as described in this Contract and in accordance with the provisions of Exhibit A. This Contract involves an exchange of resources, goods, or services that shall not result in the expenditure of funds by the State. The State shall have no liability to compensate Contractor for the delivery of any Goods or the performance of any Services under this Contract. The Parties shall ensure that all Contractor Records, State Records, and Work Product in the possession of the Parties are protected and handled in accordance with the requirements of this Contract, including the requirements of any Exhibits hereto, at all times.

5. PAYMENTS TO CONTRACTOR

A. The exchange of resources, goods, or services under this Contract shall not result in the expenditure of funds by the State. The State shall have no payment obligations to Contractor under this Contract.

B. Contractor shall make payments to the State in accordance with the provisions of Exhibit A.

6. REPORTING - NOTIFICATION

A. Litigation Reporting

If Contractor is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Contract or may affect Contractor’s ability to perform its obligations under this Contract, Contractor shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State’s principal representative identified on the Cover Page for this Contract.

7. CONTRACTOR RECORDS

The Contractor shall provide records in accordance with this Section 7, if applicable, for any services other than the leasing of dark fiber.

A. Maintenance

Contractor shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Contractor Records”). Contractor Records shall include all documents, records, communications, notes and other materials maintained by Contractor that relate to any Work performed by Subcontractors, and Contractor shall maintain all records related to the Work performed by Subcontractors required to ensure proper performance of that Work. Contractor shall maintain Contractor Records until the last to occur of: (i) the date three years after the date this Contract expires or is terminated, (ii) final payment under this Contract is made, (iii) the resolution of any pending Contract matters, (iv) if an audit is occurring, or Contractor has received notice that an audit is pending, the date such audit is completed and its findings have been resolved, or (v) as set forth in Contractor’s published record retention schedule (the “Record Retention Period”).

B. Inspection
Contractor shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Contractor Records during the Record Retention Period. Contractor shall make Contractor Records available during normal business hours at Contractor’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, in its discretion, may monitor Contractor’s performance of its obligations under this Contract using procedures as determined by the State. The State shall monitor Contractor’s performance in a manner that does not unduly interfere with Contractor’s performance of the Work.

D. Final Audit Report

Contractor shall promptly submit to the State a copy of any final audit report of an audit performed on Contractor’s records that relates to or affects this Contract or the Work, whether the audit is conducted by Contractor or a third party.

8. [RESERVED]

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Contractor under this Contract. Such a conflict of interest would arise when a Contractor or Subcontractor’s employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Contract.

B. Apparent Conflicts of Interest

Contractor acknowledges that, with respect to this Contract, even the appearance of a conflict of interest shall be harmful to the State’s interests. Absent the State’s prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor’s obligations under this Contract.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction in regard to the actual or apparent conflict constitutes a Breach of Contract.

10. INSURANCE

Contractor shall obtain and maintain insurance as specified in this section at all times during the term of this Contract. All insurance policies required by this Contract that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Contractor Insurance
The Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S. (the “GIA”) and shall maintain at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Contractor.

C. Primacy of Coverage

Coverage required of Contractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.

D. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §14 within seven days of Contractor’s receipt of such notice.

E. Subrogation Waiver

All commercial insurance policies secured or maintained by Contractor in relation to this Contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

F. Certificates

For each commercial insurance plan provided by Contractor under this Contract, Contractor shall provide to the State certificates evidencing Contractor’s insurance coverage required in this Contract within seven Business Days following the Effective Date. Contractor shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Contract within seven Business Days following the Effective Date, except that, if Contractor’s subcontract is not in effect as of the Effective Date, Contractor shall provide to the State certificates showing Subcontractor insurance coverage required under this Contract within seven Business Days following Contractor’s execution of the subcontract. No later than 15 days before the expiration date of Contractor’s or any Subcontractor’s coverage, Contractor shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Contract, upon request by the State, Contractor shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §10.

11. BREACH OF CONTRACT

In the event of a Breach of Contract, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Contract, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Contract to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Contract in whole or in part or institute any other remedy in this Contract in order to protect the public interest of the State; or if Contractor is debarred or suspended under §24-109-105, C.R.S., the State,
in its discretion, need not provide notice or cure period and may terminate this Contract in whole or in part or institute any other remedy in this Contract as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State’s Remedies

If Contractor is in breach under any provision of this Contract and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Contract or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Contractor’s uncured breach, the State may terminate this entire Contract or any part of this Contract. Contractor shall continue performance of this Contract to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Contract’s terms. At the request of the State, Contractor shall assign to the State all of Contractor’s rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor but in which the State has an interest. At the State’s request, Contractor shall return materials owned by the State in Contractor’s possession at the time of any termination. Contractor shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State’s request.

b. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by Contractor.

ii. Remedies Not Involving Termination

This Section 11 A. ii only applies in the event Contractor engages with the State for any services other than leasing dark fiber.

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Contractor’s performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in the performance schedule. Contractor shall promptly cease
performing Work in accordance with the State’s directive, and the State shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Removal

Demand immediate removal of any of Contractor’s employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the State to be contrary to the public interest or the State’s best interest.

c. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, as approved by the State (i) secure that right to use such Work for the State and Contractor; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Contractor’s Remedies

If the State is in breach of any provision of this Contract and does not cure such breach, Contractor, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Contract which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of the State Agency named on the Cover Page of this Contract as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (the “Resolution Statutes”), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor’s challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

14. NOTICES AND REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Contract shall be the principal representative of the designating Party. All notices required or permitted to be
given under this Contract shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by certified or registered mail to such Party’s principal representative at the address set forth below or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Contract. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth on the Cover Page for this Contract. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative by notice submitted in accordance with this section without a formal amendment to this Contract.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Contractor assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Contractor is under contract with the State at the time, Contractor shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Contract, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). Contractor shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Contractor’s obligations in this Contract without the prior written consent of the State. Upon termination of this Contract for any reason, Contractor shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Contractor

Contractor retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Contractor including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Contractor under the Contract, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “Contractor Property”). Contractor Property shall be licensed to the State as set forth in this Contract or a State approved license agreement: (i) entered into as exhibits to this Contract; (ii) obtained by the State from the applicable third-party vendor; or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. [RESERVED]

17. GENERAL PROVISIONS
A. Assignment

Contractor’s rights and obligations under this Contract are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor’s rights and obligations approved by the State shall be subject to the provisions of this Contract.

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the State. Contractor shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Contract.

C. Binding Effect

Except as otherwise provided in §17.A, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Contract and the performance of such Party’s obligations have been duly authorized.

E. Captions and References

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Contract may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use...
digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

I. Modification

Except as otherwise provided in this Contract, any modification to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules, and Contractor’s municipal charter. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Contract to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Contract.

K. Severability

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with the intent of this Contract.

L. Survival of Certain Contract Terms

Any provision of this Contract that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of this Contract and shall be enforceable by the other Party.

M. Taxes

The Parties as individually each is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). Neither Party shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on the other Party.

N. Third Party Beneficiaries

Except for the Parties’ respective successors and assigns described in §17.A, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to this Contract, and do not create any rights for such third parties.

O. Waiver

A Party’s failure or delay in exercising any right, power, or privilege under this Contract, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.
P. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

Q. Standard and Manner of Performance

Contractor shall perform its obligations under this Contract in accordance with the highest standards of care, skill and diligence in Contractor’s industry, trade, or profession.

R. Licenses, Permits, and Other Authorizations.

Contractor shall secure, prior to the Effective Date, and maintain at all times during the term of this Contract, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Contract, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Contract.

18. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of either Party, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and each Party’s risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

B. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when
requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

C. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

D. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

E. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor’s liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

F. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor’s services and Contractor shall not employ any person having such known interests.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY
EXHIBIT A, STATEMENT OF WORK

City of Fort Collins Electric Utility Enterprise, dba Fort Collins Connexion (“Connexion”)  
CDOT Dark Fiber Lease

1. Contract Description
   a. Colorado Department of Transportation (CDOT) owns and operates a fiber optic telecommunications backbone located within the public rights of way (ROW) along Interstate 25 (I-25) from Milepost 268.2 at Prospect Road to Milepost 209.2 near 6th Avenue and fiber strands extending further into Denver terminating at the super vault outside of 910 15th Street, Denver, CO. Connexion desires to lease two (2) existing dark single-mode fiber optics telecommunication strands along the corridor from CDOT.

2. Connexion’s Responsibilities
   a. Connexion shall procure, provide, install and maintain handholes at the I-25 and Prospect Road (A location) splice point to access the leased dark fiber strands. After infrastructure is in place and ready for fiber splice work, Connexion shall submit written request for splice work to CDOT Intelligent Transportation Systems (ITS) Network Operations Center.
   b. Connexion is responsible for all fees and access into the 910 15th Street facilities (Z location) from the CDOT demarcation.
   c. Connexion is responsible for any networking designs and implementation as it is associated to the optronics to extend between A location and Z locations.
   d. Connexion shall perform all applicable maintenance related activities, on Connexion owned handhold and related Connexion owned infrastructure including required relocations.
   e. Connexion shall apply for and obtain the applicable CDOT Region Utility Permit and comply with all applicable provisions, terms and conditions of the applicable CDOT Region Utility Permit.
   f. Connexion shall apply for and obtain the applicable CDOT Region Maintenance Permit and comply with all applicable provisions, terms and conditions of the applicable CDOT Region Maintenance Permit.
   g. Connexion shall pay an annual fee as shown in Attachment A and further described below in Section 5. Payment.
   h. Connexion shall provide contact information list for their entity’s staff that are responsible for managing the fiber infrastructure including emergency contacts when Emergency and Extraordinary Repairs are necessary.
   i. Within sixty (60) days of termination of the Agreement for any reason, non-renewal, or expiration, Connexion may remove any equipment or other appurtenances, but Connexion shall not excavate or disturb the topsoil in removal thereof, and all conduit...
and fiber installed in CDOT’s right of way(s) shall be abandoned in place and become the sole property of CDOT.

3. CDOT Responsibilities
   a. CDOT shall provide 2 strands of dark fiber along I-25 from Prospect Road, Fort Collins to 6th Avenue, Denver and through Denver to 910 15th Street entrance vault or other designated entrance demarcation, for an annual lease fee as shown in Attachment A.
   b. CDOT shall identify and assign leased strands for Connexion use within 90 days of execution of this Agreement.
   c. CDOT shall conduct all splice work on CDOT owned facilities.
   d. Issue the applicable CDOT Region Utility Permit(s) within forty-five (45) days of receiving the Connexion’s properly completed and compliant application including all other required federal, state and/or local permits provided that no mitigating circumstances, requirements, clearances or other issues must be addressed thereby making issuance of said CDOT Region Utility Permit(s) not possible within forty-five (45) days.
   e. Issue the applicable CDOT Region Maintenance Permit(s) within forty-five (45) days of receiving Company’s properly completed and compliant application provided that no mitigating circumstances or other issues must be addressed thereby making issuance of said CDOT Region Maintenance Permit(s) not possible within forty-five (45) days.
   f. CDOT shall perform all applicable maintenance related activities on the CDOT owned fiber optic cables, including:
      i. Routine Preventative Maintenance: Routine Preventative Maintenance, as applicable, shall at a minimum consist of, but not be limited to, periodic inspection of the project facility, including reinstallation of knocked down fiber location markers and replacement of damaged or missing fiber location markers, clearing and cleaning debris from the facility pull boxes so that they are visible and performing locates within three (3) business days from receipt of UNCC notice unless Force Majeure, severe weather, highway closures or extreme safety hazards exist. CDOT shall supply materials such as, but not limited to, fiber location markers at its own expense and shall perform all necessary Route Preventative Maintenance at its own expense and shall not seek reimbursement for any and all costs associated with Route Preventative Maintenance performed.
      ii. Registering the Project Facility: CDOT shall register or cause to be registered the project facility. CDOT shall be solely responsible to pay all costs to repair and/or replace the project facility due only to failure to perform locates, or to perform locates in a timely manner, resulting in damage and/or cutting or severing the fiber infrastructure in the project facility. CDOT shall not be responsible to register or cause to be registered any lateral conduit or fiber optic cable the other party installs, neither shall CDOT be responsible to pay for any costs to repair and/or replace any lateral conduit or fiber optic cable installed by the other party.
iii. Emergency and Extraordinary Repairs: Emergency and Extraordinary Repairs shall mean repairs required as a result of the fiber optic cables in the project facility have been damaged, cut, or severed and repairs required as a result of pull boxes being crushed or damaged. CDOT shall perform and be solely responsible to pay for all necessary Emergency and Extraordinary Repairs including splicing and reconnecting of the fibers in the project facility. CDOT’s standard for restoral of outages and damages are best effort.

iv. Scheduled Maintenance: CDOT may need to conduct work that requires a scheduled outage of their fiber optic cable. In the event of a scheduled outage CDOT shall provide 3 days notice for any scheduled outage not to exceed 8 hours unless it is an emergency repair.

v. Notification: In the event that Emergency and Extraordinary Repairs are performed, the parties shall notify each other as soon as is reasonable and practicable, and shall make reasonable effort to notify each other while such Emergency and Extraordinary Repair is in progress. Notification shall include, to the extent practicable, the nature, location and duration of the Emergency and Extraordinary Repair. A telephone call followed by an email with an electronic receipt shall constitute acceptable notification.

vi. Entering the Parties Pull Boxes: For safety and security reasons CDOT, including but not limited to, CDOT’s employees, sub-contractors, agents, entities, affiliates, etc. shall NOT enter Connexion’s labeled pull boxes, vaults and/or manholes without receiving written permission. For safety and security reasons Connexion including but not limited to, Connexion’s employees, sub-contractors, agents, entities, affiliates, etc. shall NOT enter CDOT’s pull boxes, vaults and/or manholes without receiving written permission. Written permission shall be acceptable in the form of email with an electronic receipt, except where entry is necessary to perform Emergency and Extraordinary Repairs.

vii. Loss of Use: Either Party’s loss of use of the Project Facility shall not entitle such Party to any damages or loss from the other Party, in any manner whatsoever, for loss of use, which loss of use could be attributed, but not limited to, as a result of any Routine Preventative Maintenance, Registering the Project Facility with UNCC, Emergency and Extraordinary Repairs or any other activity described in this same Section or any other unforeseen circumstance that may result in such loss of use, and such loss of use does not relieve either Party from any obligations assumed by this Agreement, or from complete and proper fulfillment of the terms and conditions of this Agreement, neither does it entitle either Party to any compensation for damages or loss from the other Party, in any manner whatsoever, for such loss of use.

4. Relocation: Each Party recognizes that from time to time due to highway and/or transportation projects in the CDOT ROW, it may become necessary to relocate either a portion, or all, of the infrastructure installed as part of the properly executed Agreement. If such relocation becomes
necessary for whatever reason, CDOT shall be solely responsible for all costs incurred to relocate all CDOT infrastructure, except that CDOT shall not be responsible for any costs incurred to relocate all Connexion’s infrastructure. To accomplish relocation of Connexion’s infrastructure for which Connexion is solely and entirely responsible, Connexion shall have the following two (2) options:

a. Hire a contractor to relocate Connexion’s infrastructure in accordance with CDOT construction plans and schedules. Connexion shall direct such contractor to coordinate with the contractor CDOT hires to perform construction and relocation of the CDOT infrastructure to ensure that the Connexion’s infrastructure is relocated in a coordinated manner and that the project is successfully completed.

b. Authorize the contractor hired by CDOT to relocate Connexion’s infrastructure in accordance with CDOT construction plans and schedules. Connexion shall be solely responsible to pay for all cost associated to relocate Connexion’s infrastructure. Due to the vested interest that Connexion has in fiber infrastructure installed in the CDOT ROW, CDOT shall use commercially reasonable efforts to give Connexion notice of relocation as soon as CDOT becomes aware of such relocation and CDOT shall keep Connexion well informed throughout the entire relocation process, including but not limited to, development of relocation project plans and schedules. Also, CDOT shall give Connexion an official notice that identifies the schedule at least one hundred twenty (120) days prior to the commencement of such relocation project.

5. Payment

a. Connexion shall make the first year’s Total Annual Lease Payment as shown in Attachment A within thirty (30) days of the Effective Date. Connexion may pay the last year’s Total Annual Lease Payment based on a prorated amount of the last year’s annual lease payment corresponding from the anniversary of the Effective Date to the expiration date of this Lease Agreement.

b. Connexion shall pay CDOT an annual lease payment for each subsequent year of the term of this Lease Agreement within thirty (30) days of the anniversary of the Effective Date. The annual lease payment shall automatically be increased by three percent (3%) each year after the first year. Connexion shall pay the Total Annual Lease Payment amount for each subsequent year of the Lease Agreement term as shown in Attachment A. Payments shall be made payable to CDOT at:

Colorado Department of Transportation
C/o Accounting Receipts & Deposits
2829 West Howard Place
Denver, CO 80204

Or at such place as CDOT from time to time designates by notice. In the event CDOT has not received the Total Annual Lease Payment hereunder within forty-five (45) days after said payment becomes due and owing, a late charge of five percent (5%) of that Total Annual Lease Payment shall be assessed to Connexion. If fees owed by Connexion are 90 days or more past due, CDOT may disconnect leased dark fibers with a minimum of thirty (30) days prior written notice.
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Exhibit A

Page 5 of 5
EXHIBIT B, SAMPLE OPTION LETTER

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<td>Month Day, Year</td>
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1. OPTIONS:
   Option to extend for an Extension Term

2. REQUIRED PROVISIONS:
   In accordance with Section(s) Number of the Original Contract referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current contract expiration date shown above, at the rates stated in the Original Contract, as amended.

3. OPTION EFFECTIVE DATE:
   A. The effective date of this Option Letter is upon approval of the State or , whichever is later.

CONTRACTOR

City of Fort Collins Electric Utility Enterprise, dba Fort Collins Connexion

By: ________________, Enterprise Board President
Date: ________________

STATE OF COLORADO

Jared S. Polis, Governor
Department of Transportation
Shoshana M. Lew, Executive Director

By: Stephen Harelson, P.E., Chief Engineer
Effective Date: ________________